

Criminal procedure Law

**Part I**  
General principles

Chapter 1  
*Basic Function and principles of the Criminal Process*

**Article 1: Function of the Criminal Process**

The criminal process has the function of the urgent search for wrongful acts and to ensure the legitimate application of the law to offenders, in not allowing offenders to escape punishment and seeking to avoid punishing those who are innocent

The criminal process is aimed at the goal of increasing justice, at dispatching and Preventing wrongdoing, and in educating and training citizens to strictly adhere to and to be bound by the law.

**Article 2: The necessity of the Criminal Process**

In the case that officials are investing or interrogating or the public prosecutor has found evidence of an offense, an investigation or interrogation must be commenced within the boundaries of their authority. There must be usage of measures provided for in the law in order to search for offenses and offenders and then send such offender to the courts for sentencing according to the law.

**Article 3: Cause Leading to the Dismissal of a Criminal Case**

Causes which will not lead to a commencement of an investigation or interrogation or which will not lead to a continuance of criminal procedures are as follows:

1. Lack of case of the criminally wrongful act;
2. Lack of composition of the criminally wrongful act;
3. The statute of; limitations for the criminally wrongful act;
4. There is a reprieve;
5. Wrongful acts of minors who have yet to reach the age of criminal responsibility;
- 6 there is an agreement to mediate between the injured party and the accused party in a case where a wrongful act which is not seriously dangerous to society as provided for in Article 22 of the Penal Code.
- 7 Lack of a criminal suit by the injured party in the case that a wrongful act which necessitates a complaint by those involved as provided for in Article 22 of the Penal Code.
- 8 The offender dies;

- 9 There is an order to close the case or there is a court decision that is already absolutely enforceable regarding the same case.
- 10 There is a withdrawal of the complaint by the injured party in a case in

which

there is an offense under Article 22 of the Penal Code.

**Article 4: Rights of the Court to Adjudge Case**

Only the court has the authority to adjudge a criminal case, No individual shall be deemed an offender and be punished criminally without a court decision.

**Article 5: The independence of judges and Laymen jurors**

In the consideration of case, judges and laymen jurors must perform their duties Independently, without external interference, and only under the Law.

**Article 6: Consideration of a Case as a tribunal**

Judges and laymen jurors which have been selected as provided by the Peoples Court Law must consider cases as a judicial tribunal. Court judgments must be made by majority vote.

Laymen jurors have the same right as judges in the resolution of all matters regarding the consideration of cases and in agreements to make decision.

Consideration of criminal case at the Court of First Instance must have one judge and two laymen jurors.

Consideration of criminal cases at the rescission and appeals levels must consist of three Judges

**Article 7: Refusal [ of officials ]**

If judges, laymen jurors, public prosecutors, civil servant investigators, investigating-Interrogating officials, experts, and translators, see that they have interests or some relationship with the case, that person must request to recess themselves from involvement in such case.

**Article 8: Prohibition of Involvement the Consideration of the same Case Twice**

Judges and laymen jurors involved in the consideration of a case in the Court of First Instance or at a rescission level shall not be allowed to be involved in the consideration of the same case at the level of rescission, at the court of appeals, or at any new consideration of the case at the Court of First instance, except in cases as provided by law..

**Article 9: Language Used in Prosecution**

Prosecution of a case must be in the Lao language. Those involved in the case who do not know the Lao language have the right to use their own language via a translator.

**Article 10: case Hearings Shall be open to the public**

Case hearings must be conducted openly, except in the case relates to state secrets, the wrongful acts of individuals who have yet to reach the age of sixteen, some wrongful acts between a husband and wife, [those which involve] family or tradition ]

The reading of the court’s decision must be done openly.

**Article 11: Prohibition of Breaches of Citizens’ Rights and Freedoms**

No person may be arrested or jailed without order from the public prosecutor or the court except that the arrested in the case of a wrongful act which is sighted or in the case of urgency. In the case of an arrest or a jailing in contra diction to the law, or there is a jailing beyond the term as provided for in the law or a court order, the public prosecutor must issue an order to release that person immediately.

**Article 12: The Equality of Citizens before the Law and the Courts**

The adjudgment of a criminal case must be based upon equality of all Lao citizens before the law and the courts without reference to origin, financial or social status, race,, ethnicity, language, sex, level of education, profession, religion, homeland, etc.

**Article 13: The Guaranteeing of an Accuser’s Rights to Pursue his Rights**

Courts, public prosecutors, civil servant investigators, investigator-interrogator officials must guarantee the rights of an accused to pursue his rights as determined by law in order to protect his legitimate rights and interests.

**Article 14: The processing of a Criminal Case must be Thorough, Complete, and Standardized**

Courts, public prosecutors,, civil servant investigators, investigator-interrogator officials, must make use of measures as provided for in the law to effect the criminal process in a thorough, complete, and standardized manner, in order to fin evidence to indict or to confirm the innocence of the accused and to investigate the cases leading to the decrease or the increase of criminal liability.

In the taking of the statement from the accused, and individuals involved in the case, it is Prohibited to use severity, threats, physical violence, or the use of other illegal measures.

Chapter 2  
*Evidence in Criminal Proceedings*

**Article 15: Evidence**

Evidence in criminal case are facts which demonstrate the existence or non-existence of acts which are dangerous to society, offenses of the individual conducting that act and other causes which are beneficial to the proper consideration of the case.

Such facts are things which are derived from witness statements, statements, of injured parties, statements of a suspect,, statements of the accused, opinions of experts, material evidence, documentation of investigations-interrogations court activities and other documents which relate to the case.

**Article 16: Evaluation of Evidence**

The courts, public prosecutors, civil servant interrogators or investigating-interrogating officials must submit their evaluation of evidence with their belief in [acceptance of] such evidence based upon a thorough and complete consideration of the case, and based upon a standard/precedence.

**Part II**

*Rights and Obligations of Participants in Criminal Proceedings*

**Article 17: Participants in Criminal Proceedings**

Participants in criminal proceedings:

- 1 Accused or defendant;
- 2 Injured party;
- 3 Civil plaintiff;
- 4 Civilly liable party;
- 5 Witnesses;
- 6 Experts;
- 7 Translators;
- 8 Defenders

**Article 18: Rights and Obligations of an Accused or Defendant**

An accused is an individual who has been brought to case proceedings by the order for a commencement of investigation-interrogation from an investigating-interrogating official or a

public prosecutor.

An accused who has been charged by the court is called a defendant.

An accused who has been sentenced is called a criminal.

An accused or a defendant has the right to:

- 1 Be informed of and defeat the charge made against him;
- 2 Submit evidence;

- 3 Submit applications;
- 4 Demand to see all documents in the case dossier after investigation - Interrogation has ended;
- 5 Obtain a defender in the pursuit of a case;
- 6 Be involved in the case hearings at the Court of First Instance;
- 7 Submit a request that judges, laymen judges, public prosecutors, civil Servant investigator-interrogators, experts, and translators recess themselves;
- 8 Object to all improper acts and orders of civil servants, of investigators-interrogators, public prosecutors, and the court;
- 9 Issue an opinion as the last party in the trial [have the last word in a trial];
- 10 Request a revocation of an order of an investigating-interrogating official, civil servant investigator-interrogator, a public prosecutor, or an order, a decision, or a court judgment.

An accused or a defendant has the obligation to:

- 1 voluntarily turn themselves in according to an investigating-interrogating official, a civil servant investigator-interrogator, a public prosecutor, or the court;
- 2 Explain or make additional statements to the charge;
- 3 Adhere to the regulations and orders of the court at court hearings

**Article 19: Rights and Obligation of an Injured party**

An injured party is an individual who has had their health, property, or spirit injured by the wrongful acts of others.

An injured party has the rights to:

- 1 Make statements regarding the case;
- 2 Submit evidence;
- 3 Submit an application/request;
- 4 Demand to review all documents in the case dossier after investigation-interrogation has ended;
- 5 participate in the trial or in court hearings;
- 6 Submit that judges, laymen judges, public prosecutors, civil servant Investigator-interrogators, investigating-interrogating officials, experts, and Translators that they recess themselves;
- 7 Object to all improper acts orders of investigating-interrogating officials Civil servant investigators-interrogators, or public prosecutors, and the court
- 8 Request a revocation of the orders of investigating-interrogating officials civil servant investigators-interrogators, or public prosecutors, or the orders, decisions, or judgments of the court;
- 9 Agree to mediate with the accused in the case in which there is an offense which was not a seriously dangerous act toward society;
- 10 Obtain a defender [protector] in the pursuit of a case;

- 11 Withdraw the claim to sue.

In the case that an injured party has died, their next of kin may exercise their rights as Provided of in this Article.

Injured parties have the obligation to

- 1 Voluntarily submit themselves according to an order of an investigating-interrogating official, a civil servant investigator-interrogator, a public prosecutor, or the court;
- 2 Be liable for their false statements or for their refusals to make statements;

**Article 20: Rights and Obligations of civil Plaintiff**

A civil plaintiff is individual who has had their health, property or spirit injured, and have filed a civil suit against the accused or against those who are civilly liable for compensation for their damages

A civil plaintiff has rights and obligations similar to the injured party, which are provided for in Article 19 of this Law

**Article 21: Rights and Obligations of a Civilly Liable party**

A civilly liable party in a criminal case may be parents, adoptive parents, guardians, an office, an enterprise, and an organization which must be materially liable for losses arising from the wrongful acts of the accused. Civilly liable parties have the rights to

- 1 Respond to the suit;
- 2 Give explanation against the complaint filled;
- 3 Submit evidence;
- 4 Submit requests;
- 5 Demand to review all documents appearing in the case dossier after Investigation-interrogation has been terminated;
- 6 Participate in trials;
- 7 Submit that judges, laymen judges, public prosecutors, civil servant Interrogators, investigating-interrogating officials, experts, and translators that they recess themselves;
- 8 Object to all improper acts and orders of investigating-interrogating officials, Civil servant interrogators, public prosecutors, and the court;
- 9 Request a cancellation of the orders of investigating-interrogating officials, Civil servant interrogators, public prosecutors or court order, decisions, or judgments;

10 Obtain a protector in the pursuit/processing of the case.  
Those civilly liable have the same obligations as the injured party, which are provided for  
in  
Article 19 of this law

**Article 22: Rights and Duties of Witnesses**

Witnesses are individuals who have knowledge of the circumstances of a case.

Deaf and mute people, those not in control of their mental facilities, relatives of the  
litigants,  
can come forward and give statements, however, they shall not be deemed witnesses.  
Witnesses have the right to

- 1 Give statements;
- 2 See the documents recording their statements during the investigation-  
Interrogation stage;
- 3 Amend or modify their statements;
- 4 Object to all improper acts and orders of investigating-interrogating  
officials,

civil servant interrogators, public prosecutors, and courts.

Witnesses have the same obligations as injured parties, which are provided for in article  
19  
of this Law.

**Article 23: Experts**

Experts are individuals who have know-how in a certain profession, which makes them  
capable of clarifying specific matters.

In the proving of evidence, investigating-interrogating officials, civil servant  
interrogators,

Public prosecutors, the court must issue an order to appoint an expert.

Experts must conduct the proving of evidence within the scope provided for in such order  
[appointing them]

Experts give their opinions on their own behalf and liable for such opinions,

**Article 24: translators**

Translators are individuals who are able to translate any language for participants in a  
case

Who do not know the Lao language.

Translators must be liable for their translations.

## **Article 25: Rights and Obligations of Defenders**

Defenders are individuals who participate in court proceedings to protect the rights and interests of an accused, a defendant, an injured party, a civil plaintiff, or a civilly liable party.

A defender may be a lawyer, a representative of a trade union organization, or some other association, or a husband or wife, or next of kin.

In the case that the accused is a minor, a deaf or mute person, someone not in control of their mental faculties, or someone who does not know the Lao language, or is someone who will receive capital punishment, that person must have a defender.

A defender may participate in the case from the date there is an investigation-interrogation to commence.

A defender has the right to:

- 1 Meet the accused;
- 2 Demand to review all documents in the case dossier and extract the contents  
Which are necessary from that dossier;
- 3 Submit evidence;
- 4 Submit requests;
- 5 Participate in court hearings;
- 6 Submit that judges, laymen judges, public prosecutors, civil servant interrogators, investigating-interrogating officials, experts, and translators recuse themselves.
- 7 Object to all improper acts and orders of investigating-interrogating officials,  
civil servant interrogators, public prosecutors, and the courts.
- 8 Request a cancellation of the orders of investigating-interrogating officials,  
civil servant interrogators, public prosecutors or court orders decisions,  
judgments.

Defenders have obligation to

- 1 Use all methods of defense provided for in the law in order to protect the Rights and interests of the person that defender is defending;
- 2 Give legal assistance to the person the defender is defending.

### **Part III**

#### *Investigation-Interrogation of Criminal Cases*



Chapter 1  
*Commencement of investigation-Interrogation in Criminal Cases*

**Article 26: Events and Basis for the Commencement of Investigation-Interrogation in Criminal Cases**

Cases for the commencement of investigation-interrogation in criminal cases consist of

- 1 A citizen, office, enterprise, organization or an employee's suit or a complaint regarding an offense. Such suit or complaint is to be submitted to an investigating-interrogation official or the public prosecutor.
- 2 The voluntary submission of the offender;
- 3 The discovery of evidence of wrong doing by the investigating-interrogating office, public prosecutor, or court.

There shall be commencement of the investigation-interrogation of a criminal case only if there is a sufficient basis which demonstrates the elements of an offense.

**Article 27: An order to Commence the Investigation-Interrogation in a Criminal case**

In the case that there is a sufficient basis to commence the investigation-interrogation of a criminal case, the investigating-interrogating official or the public prosecutor must issue an order to commence investigation-interrogation within the scope of his authority. That order must indicate the date, hour, and location of the issuance of the order, the name and surname, the position and title of the issuer and the investigator-interrogator, based upon the commencement of investigation-interrogation, the location of the offense, and the article of the penal Code.

In the case that the investigating-interrogating official is the one who issues the order to commence investigation-interrogation, a copy of such order must be sent to the public prosecutor immediately.

In the case that there is an insufficient basis for commencement of investigation-interrogation or there is an event which causes the criminal process to become invalid, there shall be no commencement of investigation-interrogation along with sending such order to individuals, enterprises or organizations, which have filed suit or have made complaints.

An order not to commence investigation-interrogation of an investigating-interrogating official may be canceled by application to the public prosecutor and an order not to commence the investigation-interrogation of the public prosecutor may be canceled by application to a

higher level public prosecutor within seven days from the day that there has been notification of such order.

**Article 28: The public prosecutor’s Monitoring and Supervision [powers during the] Commencement of Investigation-Interrogation**

The public prosecutor has duty to monitor and supervise that the commencement investigation-interrogation is conducted in accordance with the law.

In the case that an investing-interrogating official has issued an order to commence Investigation-interrogation without a basis in law as provided for in Article 26 of this Law, the

Public prosecutor must issue an order to revoke such order or issue an order to close the Case.

Chapter 2  
*Investigation-Interrogation*

**Article 29: Investigation-Interrogation Agencies**

The investigation-interrogation agencies are comprised of;

- 1 The investigation-interrogation agency of the police;
- 2 The investigation-interrogation agency of the military;
- 3 The investigation-interrogation agency of customs;
- 4 The investigation-interrogation agency of forestry,

**Article 30: Rights and Duties of Investigation-Interrogation Agencies**

Investigation-interrogation agencies have the rights and as follows:

- 1 Accept and record complaints regarding offenses;
- 2 Report to the public prosecutor regarding offenses;
- 3 Issue an order to commence investigation-interrogation and to immediately Send a copy of the order to the public prosecutor;
- 4 Proceed with investigation-interrogation;
- 5 Make use of preventative measures as provided for in the law;
- 6 Send a request to cancel an order of the public prosecutor to a higher level Public prosecutor;
- 7 Summarize the investigation-interrogation and compile a case dossier to be Sent to the public prosecutor,

In the exercise of such rights and duties, the investigation-interrogation agencies must adhere to the scope of their rights and authorities as determined by their respective divisions.

**Article 31: Activities of Investigation-Interrogation Agencies**

Upon receipt of a complaint regarding an offense or upon the discovery of evidence of an offense, investigation-interrogation officials must report such to the public prosecutor within 24 hours

If it is deemed an important case, the report must be made immediately

In the case an offense requires urgent investigation-interrogation, the investigating-interrogating official must issue an order to commence investigation-interrogation according to Article 27 of this Law. Simultaneously, the investigating-interrogation official must make use of investigation-interrogative measures and preventive measures provided for by law. When an investigation-interrogation has terminated, if it is deemed that the case should be closed or the processing of such case should be suspended, the investigating-interrogating official must issue an order to close or to suspend the processing of the case, and then notify the public prosecutor. If it is deemed that there is sufficient evidence that the accused has committed an offense, the investigating-interrogating official must send a summarized report of the investigation-interrogation along with the case dossier and neutral objective information to the public prosecutor.

For offenses which are penal matters or correctional matters which the law has determined a punishment of the deprivation of personal liberty at a maximum not to exceed three years, if there is complete evidence, the investigating-interrogating official or a civil servant interrogator can send the case dossier along with a representative to the public prosecutor for a direct indictment without commencement of an investigation-interrogation.

**Article 32: Term for Investigation-Interrogation**

The investigating-interrogating official must proceed with investigation-interrogation, with a summary of the investigation-interrogation and the compilation of the case dossier as well as objective information to be sent to the public prosecutor within a period no later than at least two months from the date that investigation-interrogation has commenced.

If the term for the investigation-interrogation is close to being terminated, more investigation-interrogation is required, then the public prosecutor may extend the time period for more

investigation-interrogation for additional two month periods in accordance with the request of the investigation-interrogation agency

In the case that there is a return of the case dossier to the investigation-interrogation agency for additional investigation-interrogation, that addition term for investigation-interrogation shall not exceed two months from the date that the investigating-interrogating official has received the case dossier, In the case that there is a reopening of a suspended case or a closed case, the investigation-interrogation shall be performed in accordance with the time limits referred to in paragraph 1 and paragraph 2 of this Article from the date of such reopening of the case.

In the authorization or non-authorization of a time extension for that investigation-Interrogation, the public prosecutor must issue an order in writing along with his reasons [for Doing so]

### Chapter 3 *Investigation-Interrogation Measures*

#### **Article 33: The Rendering of Statements**

The rendering of a statement by the accused:

An investigation official, a civil servant investigator-interrogator must take a statement from the accused immediately after the commencement of investigation-interrogation, if the rendering of such statement is impossible to obtain immediately, such must be documented immediately along with reasons [for such impossibility].

The rendering of a statement by the accused must be performed at the office of the investigation-interrogation agency of the civil servant investigator-interrogator. However, if necessary, such may be performed at the house of the accused or at some other location.

Initially, in the rendering of that statement, the investigating-interrogating official, the civil servant investigator-interrogator must notify [the accused] of the charges and explain to the concerned individual their rights and obligations.

The rendering of a statement from a witness, an injured party, a civil plaintiff, a civilly liable Party;

An investigating-interrogating official, a civil servant investigator-interrogator must notify the concerned party of their rights and obligations, must inform them of their liabilities in the rendering of a statement or in their refusal to render a statement.

In the rendering of such statement, the investigating-interrogating official, a civil servant Investigator-interrogator must have a reporter [recorder] present.

**Article 34: The Rendering of a Statement from a Minor, Deaf and Mute persons, and Persons not in Control of their Mental Facilities**

In the rendering of a statement by a minor, deaf and mute persons, and persons not in control of their mental facilities, who are not able to exercise their rights, there must be the participation of a defender, a spouse, parents, guardian or some other representative,

**Article 35: The Documentation of the statement**

In each rendering of a statement, the investigating-interrogating official or civil servant investigator-interrogator must document the [statement]

In the documentation of a statement, it must state:

Location, day, hour, name and surname, rank and title of the investigation-interrogation official or civil servant investigator-interrogator, the name and surname, brief biography of the person making the statement and other information as provided for in the standard form.

When the rendering of a statement has ended, the investing-interrogating official or the civil servant interrogator must read the contents of the recorded statement to the person making the statement or allow the concerned individual to read it themselves. Afterwards, the parties involved in the rendering of a statement must together sign or place their thumbprint on each page

If there are correction or additions the contents, the investigating-interrogating official or civil servant interrogator, the recorder or the person giving the testimony must sign to confirm on the line of print where the correction or addition was made.

In the case that the person giving the statement does not agree to sign or place his thumbprint, the investigating-interrogation official or civil servant investigator-interrogator must make a note of such [refusal] at the end of the document.

Such recorded statement shall be made in two copies; the original copy shall be part of the case dossier and the second copy shall be for the investigating-interrogating official or the civil servant investigator-interrogator for their safekeeping.

**Article 36: Question in the presence of Others**

When statements are non-conforming, the investigating-interrogating official or a civil servant interrogator, has the right to question those persons who gave their statements together, however each questioning shall involve no more than two people at any time, Documentation of the questioning of persons giving statements in the presence of other Persons who have given statements shall be performed in accordance with Article 35 of this Law.

**Article 37: Incident Site Reports**

To search for evidence of an offense and material evidence, to allow that conditions of an offense be clear, investigating-interrogating officials and civil servant interrogators must make an incident site report and [gather] materials and other documents.

The incident site report may be made before the commencement of the investigation-Interrogation.

The incident site report must be made during the day except in necessary and urgent cases only.

At the time of the making of the incident site report, there must be at least two witnesses.

The investigating-interrogating official or the civil servant interrogator has the right to summon for the making of the incident site the accused, a suspect, an injured party witnesses, and experts.

In the incident site report, the investigating-interrogating official or the civil servant interrogator must make a sketch of the location of the incident, take physical evidence or may take photographs.

**Article 38: Death Reports**

Investigating-interrogating officials or civil servant interrogators must make a death report at the location where the incident arose with at least two witnesses and a doctor involved or may make use of some other expert for their participation in the death report.

**Article 39: Documentation of the Report**

In the incident site report or the death report, the investigating-interrogating official or the civil servant interrogator must document such, In such document, it must state:

Location, date, time of initiation and the time of termination of the inspection, the name and surname, the address, profession, the position and title of the investigating-interrogation official or the civil servant interrogator and the individuals involved in the inspection, all things observed or occurring at that time and anything seized.

After the documentation and reading of the report, involved individuals in the making of such Inspection must sign such report.

**Article 40: Appointment of Experts to Conduct proofs**

When it is deemed that it is necessary to conduct a proofing specifically in the case that there is a death by unclear cases or there are suspicions regarding majority age, the inability of the accused to understand the charges or circumstances in which he finds himself, the investigating-interrogating official or the civil servant interrogator must issue an order to appoint an expert to conduct proofing.

That order must state: the name and surname of the expert or the relevant agency, the matter and the material or goods which must be proved, the time required for the proofing, the rights and obligations of the expert, a statement of the expert's liabilities involved in the proofing.

The investing-interrogating official or the civil servant interrogator must notify the accused, the injured party, the civil plaintiff, or a civilly liable party of such order.

After the proofing has ended, the expert must summarize his opinions and send such to the investigating-interrogating official or the civil servant interrogator in accordance with the time limits assigned [to such take]

An expert's proofing may be performed many times

**Article 41: Searches**

Searches may be conducted only when there is an order in writing from the public Prosecutor or a court, except in necessary and urgent cases, however, there must be a reporting to the public prosecutor within twenty-four hours after such search has ended

Before and after such search, the individuals involved in such search must demonstrate their [honesty and] integrity toward the owner of searched premises.

Building searches:

Building searches must be made in the presence of a village level authority, the house owner and at least two witnesses, In the case that there is a search of an office, an agency or an enterprise, it must be conducted in the presence of a representative of such office, agency or enterprise

Searches of places of worship or temples must have the participation of a temple Administrator.

Searches off buildings shall be performed from six a m to six p.m.

continue In the case that searches are conducted but have still not ended, they shall  
until completion.

or Materials and documents can be seized as objective evidence only so long as there  
is a relationship and such have been used in the wrong doing or which [materials  
documents] are illegal

Searches of an individual:

The search of an arrested person, an imprisoned person or a person suspected of concealing objects can be made without an order [for such search].

Officials conducting searches must be individuals who are of the same sex as the Person being searched.

The search of a female must be conducted at an enclosed premises.

Documentation of a search:

such When a building or an individual search has ended, the officials who conducted

Search must document such search and account for such items according to description and quantity and quantity in detail.

be The documentation of such search must be made in two copies and in the presence of the participants and then signed by all as evidence. One copy of such documentation must comprise a part of the case dossier and the other copy must

give to the relevant house owner or the representative of the office, agency enterprise, or individual searched.



**Article 42: Seizure and Sequestration of Assets**

In the case that it is clearly known of the type, quantity, and location of materials related to

[the case ] and such can be used beneficially in the processing of the case, the investigating-

interrogating official or civil servant interrogator must issue an order to seize such. For materials which are immovable, there shall be an order to sequester such.

The method for seizures and sequestration and the documentation of such seizure or Sequestration shall be performed in accordance with Article 41 of this Law

**Article 43: Protection of Objective Evidence**

Objective evidence which is material must be wrapped, placed under lock and key, be Stamped and be well protected.

Objective evidence which is bank money, foreign currency, checks, other securities, or Valuables, must be deposited with a bank

The use of objective evidence, the loss of objective evidence or damage of such shall incur

liability according to Article 157 of penal Code.

**Article 44: Re-examination of Information**

In order to inspect and confirm the accuracy of any information, an investigating-interrogating official or a civil servant interrogator can re-examine information

In such re-examination, the investigating-interrogating official or civil servant interrogator

may take photographs, take measurements and make sketches.

The re-examination of information shall be made so long as it is deemed that such is not endangering life or the environment while not causing damage to human dignity.

In such re-examination,. There must be at least two witnesses involved and there may be the

involvement of a suspect, an accused, witnesses and injured parties, in necessary cases, experts may also be involved.

Documentation of the re-examination shall be performed according to Article 41 of this Law.

**Article 45: Identification and Confirmation of a person**

In necessary cases, investigating-interrogating official or civil servant interrogators may

allow witnesses, injured parties, suspects or accused parties to identify individuals or confirm materials corpses.

Before identification or confirmation, the person identifying individuals or confirming materials or corpses must make a statement regarding the condition the of their observation

along with having seen and having been aware of what they were seeing, describing the physical features, and other special point of the individual or material .

In the identification process, the person to be identified must be placed generally with at three other goods individual who have similar physical features.

In the confirmation of goods, the goods to be confirmed must be placed generally with at least three other goods which have similar characteristics and are of the same type.

The documentation of the identification of a person or the confirmation of shall be Performed in accordance with Article 41 of this Law.

#### Chapter 4 Preventative Measures

#### **Article 46: Preventative Custody**

After locating a suspect and if necessary, an investigating-interrogating official or a civil Servant interrogator may detain the concerned individual for three days in order to conduct

an investigation-interrogation, however, such detention must be reported to the public prosecutor within twenty-four hours from the time of the detention.

Within those three days, the investigating-interrogating official or the civil servant interrogator must take the statement of the detainee and make his decision as follows:

1 If it is deemed that there is no basis for the issuance of an order to commence investigation-interrogation, the investigating-interrogating official or the civil servant interrogator must release the detainee and immediately report it to the public prosecutor;

2 If it is deemed that there is no basis for the issuance of an order to commence Investigation-interrogation and if it is deemed necessary to imprison the detainee, the investigating-interrogating official must issue an order to commence investigation-interrogation and request an order to imprison from the public prosecutor For the civil servant interrogator, he must request an order to commence investigation-interrogation

and an order to imprison from the public prosecutor.

After having received the request for imprisonment of the investigation-interrogation official

and the civil servant interrogator, the public prosecutor must make his decision within twenty four hours of whether to release or to imprison the detainee.

**Article 47: Arrests**

The arrest of any individual must be accompanied by an order in writing from the public Prosecutor or the court, except in cases where an offense is seen being committed or in urgent cases.

Before the issuance of an order to arrest, the public prosecutor or the court must reference the following conditions:

1 The wrong doing must be a criminal offense upon which the law determines the Penalty to be the deprivation of personal freedom [liberty]:

2 The evidence which comprises the case must be weighty [a preponderance of evidence]:

Additionally, there must be reference to other conditions such as: the suspect may flee, destroy evidence, hurt the injured party or witnesses or will do further wrongful acts or the suspect may be hurt by the injured party or by other individuals

If there is to be an arrest of a bike or a seminarian, the temple administrator must be notified for \_\_\_\_\_

For arrests in normal cases, the arrest order along with the case of such arrest must be declared to the arrest.

In all case after an arrest of an accused, the investigating-interrogating official must report to the public prosecutor with twenty four hours and must take a statement from the arrested no later than within forty-eight hours while also rendering an opinion of whether to release or to imprison the arrested

In the case where the arrested is released or must be imprisoned, the investigating-interrogating official or civil servant interrogator must request a release order or an imprisonment order from the public prosecutor.

After there as been receipt of the request to release or imprison the arrest from the investigating-interrogating official or the interrogating civil servant, the public prosecutor must make his decision within twenty-four hours of whether to release or imprison the arrested.

In the case that it is not the investigating-interrogating official who conducts the arrest himself, the arrested must be handed over to the investigating-interrogating official immediately. For arrests in remote areas, the arrested shall be handed over to the

investigating-interrogating official from the date of the arrest.

Arrests must be conducted methodically and in a manner appropriate to the offense and the arrested.

Beatings and torture of the arrested are prohibited.

Arrests, in any case must be notified to the family, office, agency or enterprise at which the concerned individual is located within forty-eight hours and his place of imprisonment must be notified if it is deemed that such will not interfere with the case proceedings.

**Article 48: Arrests in the Case of Offenses Committed within the sight [of Officials]and in Urgent Cases**

Arrests in cases where there is an offense being committed within the sight [of officials] or in urgent cases do not require an arrest order from the public prosecutor the court.

Individuals who shall be arrested in cases where there is an offense being sighted have demonstrated the following:

1 Individuals in the act of committing an offense who are being pursued or individuals who have directly seen an incident and an injured party has identified them as the homes at the

2 Individuals who have committing an offense who are being pursued or individuals Who have directly seen an incident and an injured party has identified them as the offender.

3 Individuals who have evidence of an offense on their person or in their homes at the Time which such an offense arose.

Individuals who shall be arrested in urgent cases have demonstrated the following:

1 Individuals who are suspected of an offense who have a dubious background or an uncertain residence;

2 Individuals who are suspected of an offense who are in the act of fleeing.

**Article 49: Documentation of Arrests**

Regardless of the case, arrests must be documented as evidence.

In the documentation of an arrest, it must state the name, surname, rank, position, duty, and office of the investigating-interrogation official along with the name, surname, age, profession, status, position, duty and address of the arrested, the date, hour, and location of the arrest, the charge, the incident and the basis leading to the arrest.

In the documentation of the arrest, it must state clearly the materials seized as objective evidence and materials which were on the person of the arrested.

### **Article 50: Imprisonment**

Imprisonment must be accompanied by an order from the public prosecutor or the court and must reference conditions as provided for in article 47 of this Law

the time limits of imprisonment shall not exceed three months from the date of the issuance of the order to imprison. If it is deemed necessary, the public prosecutor shall extend the time limit for imprisonment for an additional period of three months however the total period of imprisonment shall not exceed one year. If [imprisonment has extended] beyond that period and there not sufficient evidence for a court case, the public prosecutor must issue an order to release the accused immediately.

### **Article 51: Release from Prison**

Release from prison must be accompanied by an order from the public prosecutor or the Court.

when processing a case, the public prosecutor or the court may agree to release a person from prison or release them according to request of the accused or the defendant, an organization at which the concerned individual is located, a representative or the family of the concerned individual.

Release from prison must reference the following conditions:

If it is deemed that the accused or the defendant will not flee, will not destroy evidence, will not commit further offenses, will not hurt an injured party or witnesses or the concerned individual will not be hurt by others.

In releasing an imprisoned person according to a request from the accused or a defendant, a representative or the family of the concerned individual, there may be an appropriate bond posted.

**Article 52: submission by being Accompanied [by a State Official]**

In the that a suspect, an accused, a defendant, a witness, a civil plaintiff, a civilly liable Party does not present themselves according to a summons without a reason for not appearing, the investigating-interrogating official a civil servant interrogator, a public prosecutor or the court may issue an order to have the concerned individual accompanied [by a State official].

**Article 53: House Arrest**

A suspect, an accused or a defendant may be detained at his home or other premises Without authorization from the investigating-interrogating official or the civil servant interrogator, the public prosecutor or the court.

House arrest must be accompanied by an order from an investigating-interrogating official, a civil servant interrogator, a public prosecutor, or a court.

In the case that a suspect, an accused, or a defendant has violated regulations of their House arrest, more serious preventative measures may be used.

**Article 54: Suspension of duties or position**

A suspect, an accused, or a defendant may have their duties or positions suspended during case proceeding when it is deemed that the characteristics of their offenses are related to their duties or their positions of which the concerned individual should not continue to pursue further.

The suspension of duties or position must be accompanied by an order from the public prosecutor or a court.

Chapter 5  
*Case Suspension and Closure*

**Article 55: Basis of the Suspension of a Case Proceeding**

Case proceeding shall be suspended in the case that:

- 1 The accused is in hiding, has fled the case proceedings or the concerned individual's residence is unknown and evidence in the case is as yet not weighty enough [there is not Yet a preponderance of evidence]
- 2 There is confirmation from a doctor that the accused has a serious health condition Or has lost control of his mental facilities;
- 3 It is impossible to know the identity of the offender in a case. The suspension of the processing of a case number 1 and 3 shall occur only when the time limit for the investigation-interrogation has ended.

In the case that there is a suspension of case proceeding, the investigating-interrogating official or a civil servant interrogator or a public prosecutor must issue an order to suspend [the case]. The investing-interrogating official or the civil servant interrogator's original order to suspend the processing of a case must be sent to the public prosecutor immediately.

For the suspend of case proceeding in case number 2, the investigating-interrogating official, civil servant interrogator or a public prosecutor must issue an order for the accused to receive medical treatment.

Penal cases which are suspended may be closed when the criminal statute of limitations Has run.

**Article 56: Continuation of Case Proceedings which have been Suspended**

When the basis for the suspension of case proceedings ceases to exist and the statute of limitations has not yet run, the investigating-interrogating official, a civil servant interrogator, or a public prosecutor must issue an order to continue case proceedings which has been suspended.

**Article 57: Basis for Dismissal of a Case**

Criminal cases shall be dismissed:

- 1 When there exists any cause provided for in Article 3 of this Law

2 When there is there is no sufficient evidence to show that the accused is the offender;

In the case that there is a dismissal of a case, the public prosecutor must issue an order to release the accused immediately. The investigating-interrogating official, the civil servant interrogator the public prosecutor must immediately return neutral evidence which was the property or the of the concerned individual along with personal effects to the concerned individual.

**Article 58: Reopening of a Case which has Been Closed**

In the case that a case has been dismissed due to lake of evidence or due to insufficient evidence, the public prosecutor has the right to issue an order to terminate the investigating-interrogating official or the civil servant interrogator's order to close a case and issue an order to reopen the case which had been closed.

The reopening of a case which had been closed shall be conducted only so long as the criminal statute of limitations has not yet run.

Chapter 6

*The public Prosecutor's Monitoring of the Investigation-interrogation*

**Article 59: Obligation and Authority of the public prosecutor in the Monitoring of the Investigation-Interrogation**

In the monitoring of the investigation-interrogation, the public prosecutor has the obligation to:

1 Initiate a criminal case against an offender, make use of measures to prevent an offender from being released from investigation-interrogation, and prevent an offender from escaping punishment;

2 Strictly monitor such proceedings so that innocent persons not charged in Criminal suits;

3 Monitor the adherence to regulations regarding investigation-interrogations;

4 Perform supervision and inspection to prevent individuals from being illegally arrested;

In order to perform such duties, the public prosecutor has the authority to:

1 Instruct in writing regarding the investigative-interrogative measures and the search



measures, evaluate an offense, perform investigative-interrogative measures and the search for offenders;

2 Demand the criminal case dossier, document and information regarding the offense from the investigation-interrogation agency for inspection;

3 Participate in the investigation of the criminal case and in necessary case he may investigate-interrogate on his own;

4 Send the case dossier back to the investigation-interrogation agency along with Instructions in writing to allow additional investigation-interrogation;

5 Terminate an order from the investigation-interrogation agency or of a civil servant interrogator which is illegal or which is unreasonable;

6 Order that the investigating-interrogating official or a civil servant interrogator who has violated the law during the case proceedings cease their investigation-interrogation;

7 Commence investigation-interrogation, suspend case proceedings, close a case, or refer a suit to court;

8 Authorize a defender to participate in a case from the date of the order to commence

The investigation-interrogation according to regulations as provided for in Article 25 of this Law.

**Article 60: Opinions of the public prosecutor Regarding Cases Returning from Investigation-interrogation Agencies or Civil Servant Interrogators**

The public prosecutor must research the case which has been sent from the investigation-interrogation agency or for the civil servant interrogator no more than ten days from the date of having received the case dossier and must then issue any of the following orders

1 If it is deemed that the investigation-interrogation of the case is still incomplete, the

Public prosecutor must send the case dossier back to the investigation-interrogation agency

or to the civil servant interrogator along with his opinions in writing regarding additional investigation-interrogation;

2 If it is deemed that there is a basis which is provided in Article 55 of this Law, the

Public prosecutor must issue an order to suspend the case proceedings;

3 If it is deemed that there is a basis which is provided for in Article 57 of this Law, the

Public prosecutor must issue an to close the case;

4 If it is deemed that preventative measures that the investigating-interrogating official

or the civil servant interrogator has issued are still not in compliance with the circumstances

of the case, the public prosecutor has the right to change, cancel the preventive measures or make use of such measures;

5 If it is deemed that the basis of referring the case to court [indictment] is sufficient,

The public prosecutor must issue an order referring the case to the courts.

#### **Part IV**

##### *Case Proceeding at the Court of First Instance*

#### **Article 61: Acceptance of the Case for Consideration**

The court shall accept a criminal case for consideration only so long as there is an order for

Such to be referred to the court from the public prosecutor before there can be consideration

Of such case within one month from the date having received the case dossier from the Public prosecutor.

#### **Article 62: Consideration of the Case by the judicial Committee sitting as a Preparatory Stage the Court**

After receipt of the case dossier from the public prosecutor, the president of the court Assigns one judge for review [of the case]. When there has been a review, there shall be a Submission to the president of the court for; must appoint a judicial committee to sit at a Preparatory stage which is comprise of one judge and two laymen judges. The judicial Committee at the preparatory stage must agree

1 Issue an order to send the case the case dossier to the public prosecutor for additional

investigation-interrogation if it is deemed that the investigation-interrogation is yet incomplete. with the authority to consider the case if it is deemed that such case is not subject to its authority;

2 Issue an order to send the case dossier to the public prosecutor for a modification of

the indictment or to increase the counts of the indictment from the public prosecutor is not in

conformity with actual conditions or if it is deemed that there are other offenses or individuals who remain unindicted; additional investigation-interrogation if it is deemed that

investigation-interrogation of the investigating-interrogation official or of the civil servant interrogator is incomplete

3 Have a case heard in court if it is deemed that the investigation-interrogation has been conducted correctly and completely; Issue an order to send the case dossier to the public prosecutor to modify the criminal suit or to refer additional matters to court if it is deemed that the reference to court

4 Issue an order to close a case.

The public prosecutor or a civil plaintiff has the right to or request that a Court of Recession to rescind such order to close a case with seven days from the date of having received such order;

5 Issue an order to have a case heard at a trial if it is deemed that the investigation interrogation has been conducted correctly and completely;

In such order, the following must be stated, persons to be involved in the case proceeding, the date, the hour and the location of the hearing and defendant must be notified and other participants by no less than three days from the court hearing date.

### **Article 63: case Trials at the Court of First Instance**

Trials at the level of first instance must be made directly, verbally, openly or in secret in certain case, In the presence of litigants and without a change in the judicial committee.

The president of the judicial committee has the duty to lead the trial.

After the announcement of the opening of a court session, the president of the judicial committee must inform of the names of the court committee, the public prosecutor, the court

clerk, the case under consideration, the rights of litigants to ask that the court or any individual in the court committee recess themselves or the public prosecutor, experts, or translators and then notify the litigants and the participants in the case proceedings of their

temporary rights. If there is a submission to modify the judicial committee, there shall be a temporary recess for the court to consider and make a decision regarding such matter.

After wards, the president of the judicial committee may request the biota of the defendant, notify the concerned party of the suit and charges filed by the public prosecutor.

Thereafter, the judicial committee shall hear the statement of the defendant, a civilly liable party, a civil plaintiff, witnesses and participants in case proceedings.

During a trial, the litigants and participants in case proceedings, the judicial committee, and the public prosecutor have the right to ask additional questions by approval from the president of the judicial committee. The judicial committee shall submit objective evidence and case evidence to the court and shall open the trial to debate.

When the period of debate has ended, the judicial committee may propose that the public prosecutor make a closing statement. After the judicial committee has allowed the defendant to make a closing statement, the president of the judicial committee shall then close that session of the court for the drafting of the court's opinion in secret chambers.

**Article 64: The Consideration and Drafting of the Decision in Secret Chambers**

The consideration and drafting of the decision in secret chambers must be done in detail circumspect, be reasonable and correct by reference to results of the trial as a basis for such decision

The rendering of a decision in the secret chambers must be done by majority vote by allowing the laymen judge to vote and the president of the judicial committee to cast the last vote.

**Article 65: The Reading of the Decision in Court**

After rendering a decision in secret chambers, the president along with the judicial committee must openly read the decision in court as well as notifying the litigants of rights to seek a rescission of such decision

**Article 67: Decisions to Rescind [a Lower Court's Opinion]**

In the case that defendant has not received a summons to attend a court hearing, a decision which that individual was not involved in is a default decision. Defendants have the right to object to such decision with a period of ten days from the day that they receive the decision. In this case, the court must render a new decision in such case in the presence of the concerned individual in accordance with regulations for the consideration of a case at the court of First Instance.

In the case that a defendant has attended and participated in court hearings, however has not participated, for no stated reason, or in the case that an offense is not a serious one whereby a defendant may propose that the court proceed to consider its decision while he does not participate in the decision making. The consideration and decision making shall be

considered as having been made in the presence of the litigants, In such a case, the defendant dose not have the right to object to the decision, but shall only have the right to request a rescission of the decision of the decision only.

#### **Part IV**

#### *Case Proceedings at the Court of Recession*

#### **Article 68: Rights to Request a Recession**

Defendants, defenders, and representative of defendants have the right to request a rescission of a court judgment.

The public prosecutor must submit an appeal to the court of rescission for every decision of the court which is illegal or which has insufficient basis in reason

Civil plaintiffs, civilly liable parties and representatives of such concerned individuals have the court which is illegal or which has an insufficient basis in reason.

A request for rescission or the submission of an appeal of a judgment of the supreme People's Court is not possible.

#### **Article 69: Term for the Request of a Recession and the submission of Appeals to Court Judgments**

A court of rescission shall accept cases for consideration only so long as there is a request for rescission from a litigant or there is a submission of an appeal of the public prosecutor.

Litigants have the right to request a rescission and the public prosecutor has the right to submit an appeal of the decision of the court of first instance within fifteen days from the date the judgment is made or the date of the of having been notified of the judgment.

#### **Article 70: Regulations of Recession or the Submission of an Appeal to the Judgment**

In the case that there is a request for the rescission or a submission of an appeal to a judgment, litigants or the public prosecutor must file an application for rescission or for the submission of an appeal to the court of rescission via the court which had rendered the decision in the first instance. After the expiration of the time period for the rescission of a case or for the submission of an appeal, and within three days, the court of first instance must send the application for rescission or the appeal along with the case dossier to the court of rescission for further processing of the case.

In the case that there is a direct application of a request for rescission or a submission of an appeal to the court of rescission, three days after the expiration of the time limit for the filing

of a request for rescission or the submission of an appeal the court of rescission must demand the case dossier from the court of first instance for further action. The court of rescission must consider the case within a time period of two months from the date they have received the case dossier.

In the case where there is a request for a rescission or a submission of an appeal of a Judgment, the court of first instance must notify such request for rescission or submission of

an appeal to the litigants in order to allow the concerned individuals to prepare their responses. If the defendant has been detained, he must be notified via a detaining official.

Before the consideration of a case at the court of rescission, litigant and the public prosecutor have the right to explain in writing giving their additional reasons for the request

for rescission or the submission of their appeal, observations regarding the request for rescission of any party or the submission of an appeal of the public prosecutor.

Before the consideration of a case in a court hearing at the court of rescission, the litigants and other relevant individuals in the case or the public prosecutor have the right to withdraw

their requests for rescission or their submission of appeals.

**Article 71: Individuals Participating in Court Hearings at the Court of Recession**

The Court of Recession may summon litigants to participate in court hearings. Non-Participation in a court hearing by a litigant who has received a summons shall not be Considered a reason for the suspension of case proceedings.

Individuals who are referenced in Article 68 of this Law can participate in court hearings at the court of Recession

**Article 72: Submission of Evidence to the Court of Recession**

At the Court of Recession, individuals referred to in Article 68 of this Law have the right to

Submit additional evidence before the public prosecutor moves to close hearing .

**Article 73: Regulations for the Consideration of a Case at the Court of Recession**

The Court of Recession considers cases in court openly, except in cases as provided for in Article of Law.

After the president of the judicial committee has opened the hearing and has announced the

case under consideration, the president of the judicial committee must inspect those present

who are involved in the case. Afterwards, the court may agree whether or not there can be

consideration of a case. The president of the judicial committee will then declare the names of the judicial committee, the public prosecutor and then inform the litigants of their rights to request refusal of the judicial committee or individual in the judicial committee, the public prosecutor, experts, or translators. After the judicial committee responsible for the case has made its report, the person requesting rescission or the public prosecutor submitting his appeal of a judgment must give his arguments regarding the request for rescission or the submission of his appeal

In the case that there is a submission of new additional evidence, the court must notify the Public prosecutor and those involved in the case who are present.

Thereafter, the defendant, the defender or the representative of the defendant, the injured party, the civil plaintiff or the representative of relevant parties may give explanation to the court. After the court has heard the statement of the public prosecutor, the defendant or his defender must be allowed to have additional opinion as a final matter. The court will then close the hearings for the consideration and drafting of a judgment in secret chambers and will read such judgment in a court hearing

**Article 74: Scope of the Rights of case Consideration of the court of Recession**

In the consideration of a criminal case, the Court of Recession shall inspect a judgment for legal accuracy and the reasonableness of the judgment by reference to the case dossier and new additional evidence, The Court of Recession shall not only consider matters requested for rescission or matters submitted on appeal, but must inspect the case proceedings in their entirety which relate to the defendant in that same case whether or not the defendant has requested rescission or whether there has been submission of an appeal

In the consideration of a case, the Court of Recession has the right to impose a lesser punishment for the defendant but does not have the right to increase the defendant's punishment

**Article 75: Judgments of the Court of Recession**

Judgments of the Court of Recession may:

- 1 Confirm the decision of the Court of First Instance Without modification;
- 2 Modify the decision of the Court of First Instance in part or in the entirety;
- 3 Rescind the decision and return the case to the Court of First Instance to a new

committee for renewed consideration or to old committee in the case that the old judicial committee has yet to consider a complaint of the litigants or a submission of an appeal by the public prosecutor

4 Rescind the decision of the Court of First Instance and close the case;  
Judgments of the court of Recession are final judgments

**Article 76: Cause for Recession or Modification of a Judgment**

Causes for the rescission or modification of a judgment of the Court of First Instance are as

Follows:

- 1 The investigation-interrogation or the court trial is not thorough, is incomplete lacks a standard;
- 2 Opinions of the court do not conform to the actual cases of the case;
- 3 There is a violation of the regulations of criminal procedures or there is a misuse of the Penal Law
- 4 Sentencing is not in conformity with the characteristics, the level of danger to society of the offense and the personality type of the offender.

**Article 77: The Re-consideration of a Case from the Court of First Instance**

In the case that the Court of Recession has sent a case back to the Court for First Instance for reconsideration, such consideration of the case must be performed in accordance to general regulations [regarding such consideration].

In the re-consideration of a case from the Court of First Instance, there shall be an increase

in the punishment only when:

- 1 The first judgment was not rescinded according to the submission of the appeal by the public prosecutor because the Court of First Instance imposed too light a punishment;
- 2 At the re-investigation-interrogation of the case, there was discovery of an event which confirmed that the defendant committed some other offense even more serious than the original offense or that defendant's offense was an offense which cased him to increase his criminal liability and further indicted by the public prosecutor

**Part IV**

*Enforcement of a Court Judgment*

**Article 79: Decision and Judgments of a Court to be Enforced**

Decision and judgments of a court which shall be enforced are:



- 1 Decisions and judgments of the Court of First Instance which are absolutely effective;
- 2 Judgments of the Court of Recession upholding a decision of the Court of First Instance in the entirety or which modifies such decision;
- 3 Judgments of the Court of Recession which rescission of the Court of First Instance in whole or in part;
- 4 Decision and judgments of the supreme people's Court.

**Article 79: Organization which have the Duty to Enforce Decisions and Court Judgments**

Organizations with the duty to enforce decisions and court judgment are:

- 1 Judgment enforcement personnel of the court regarding civil damages in criminal case;
- 2 Corrections personnel regarding punishment entailing the deprivation of personal liberty;
- 3 Governmental authority or a public organization, an office, an enterprise related education and training.

**Article 80: Release of a Criminal**

When an offender has served the penalty imposed upon him depriving him of his personal liberty in accordance with the law, corrections officials must release the concerned individual. When the offender has completely served his sentence in accordance with the time limits imposed, but has still not been released, the public prosecutor must issue an order to release him immediately.

**Part VII**

*Court Measures for Medical treatment*

**Article 81: The use of Court Measures for persons who have Lost Control of their Mental Facilities**

For offenders who have lost control of their mental facilities or who are lucid, but have been

afflicted with a mental disease before the court renders a judgment or during the imposition

of their sentence, the court may make use of measures to give them medical treatment by sending them to a sanitarium or to some other health care facility specifically for mental diseases.

After having received effective treatment, the offender must have their cases proceeded with or have their sentences imposed if they have not served their sentences fully as called

for in the indictment against them or within the time limits for the execution of a judgment.

The time for medical treatment shall be included in the time for the entire sentencing period.

**Article 82: The use of Court Measures Against Alcoholics or Drug Addicts**

As against alcoholic drug addict offenders who are not punished by deprivation of their personal liberty, the court may make use of measures to give them medical treatment by sending them to a hospital or some facility specifically for the treatment of their ailments.

In the case where there is punishment by deprivation of personal liberty, the court must make use of measures to give medical treatment during the period of sentencing and when the sentence is over, but the medical treatment has not yet ended, the court may extend the use of medical treatment by sending that person into a hospital specifically for the treatment of alcoholics and drug addicts or may assign them to a governmental authority, a social organization or a cooperative to continue their education, training, and treatment.

After effective treatment, the offender must be brought trial or must be punished if the Time period of their sentencing or the time period for execution of a judgment has not yet expired,

The time period for treatment shall be included in the time period of the execution of the sentencing

**Part VII**

*Monitoring Court Decisions and Judgments which are Absolutely Effective*

Chapter 1

*Case Proceedings at the Court of Appeals*

**Article 83: Appeals of Decision and Judgments which are absolutely Effective**

Decisions and judgments of a Court which are absolutely effective if there have been serious violations of the Law or there is non-conformity with actual condition of a case, may be may be submitted on appealed to a Court of Appeal for review for conformity with law and sufficient reason for such decision or judgment.

An appeals court may accept an effective court decision or judgment and then consider it

only so long as there is a request for appeal only from a former public prosecutor,  
a provincial public prosecutor, or a municipal public prosecutor.

Former public prosecutors have the right to appeal absolutely effective decisions and judgments and the president of the people's Supreme Court have the right to appeal absolutely effective court decisions and judgments of people's courts at levels to the Court of Appeals

**Article 84: Time Limits for Appeals of Appeals of Absolutely Effective Court Decisions and Judgment**

Appeals of absolutely effective decisions and judgments may be conducted at any time  
Without a time limit, however such appeal with the purpose of increasing the criminal liability of the defendant shall be conducted within one year from the date of the date of the absolutely effective decision or judgment

**Article 85; Demand for the Case Dossier for Review**

Civil servants referred to in paragraph 2 of Article 83 of this Law have the right to demand Case dossier for review.

In the case that it is deemed that an appeal is sufficiently reasonable, relevant civil servants must make an appeal and send such to the appeal court along with the case dossier for consideration.

In the case that it is deemed that such appeal has insufficient reasoning to support it, such civil servants must notify those reasons to individuals or the organization which submitted the petition to demand a review of the case dossier and then must send the case dossier which was so demanded back to the relevant court.

**Article 86: Regulation for the Consideration of a Request to Appeal at the Appellate Court**

The appellate court considers requests for appeals in a court hearing with the presence of the public prosecutor for the purpose of his statement.

In necessary cases, the appellate court may summon a party against whom a decision was rendered and other relevant individuals in a case to participate in a court hearing.

After commencement of hearings, the president of the court or the responsible judicial committee reports the conditions of the case, reports regarding the decision or judgment, and the contents of the request for appeal along with their opinions regarding such case. Thereafter, some other judicial committee or public prosecutor shall have the right to ask those responsible to report on the case and other relevant individuals have the right to make submissions and to give their opinions to the court regarding the case.

After the public prosecutor has issued his statement, the president of the court will close the hearings for consideration and drafting of a judgment in secret chambers and finally will read such judgement

### **Article 87: Judgments of the Appeals Court**

Judgments of the appeals court may:

- 1 Dismiss the request for appeal and uphold the original decision or judgment;
- 2 Rescind the relevant decision or the judgment and close the case or send the case Dossier to the Court of First Instance to a new committee for reconsideration or to the old committee in the case that such committee has yet to yet to consider any of the requests of the litigants or the request for appeal of the public prosecutor;
- 3 Rescind the decision or judgment of the Court of Recession n and close the case or send the case dossier back to the Court of Recession to a new committee for reconsideration or the old committee in the case that that committee has yet to consider any of the requests of the litigants or the request for appeal by the public prosecutor;
- 4 Modify any party or the entirety of a decision or judgment.

### **Article 88: Causes for the Rescission or the Modification of a Decision at the Appellate Level**

The Appeals Court has the right to rescind or modify any part or the entirety of decisions or judgments when there is cause as provided for in Article 76 of this Law.

### **Article 89: The Scope of Rights in the Consideration of Case by the Appeals Court**

In the consideration of a request for an appeal, the Appeals Court does not only have the duty to consider matters which are submitted to it on appeal but also has the duty to inspect all case proceedings to date.

If in such case, there is a basis for the decision for punishing several parties, however the request on appeal references only the party or parties against whom a decision was rendered, the court must conduct its consideration with reference to all parties against whom a decision was rendered in the same case, whether or not the request for appeal relates to those persons.

In the case that it is deemed that the Court of First Instance or the Court of Recession has rendered a decision to allow a defendant to lessen the charges brought against them or has made a decision to close the case incorrectly or it is deemed that the sentencing of the defendant is not commensurate with the offense, the Appeals Court must rescind such decision or judgment and send the case dossier back to the relevant court of First Instance or the Court of Recession for their reconsideration.

In the case that the party upon whom a sentence was imposed or in favor of whom a decision was rendered to lessen charges brought against them, are a large number of people, if the request for appeal did not refer to an [increase in punishment], the Appeals Court does not have the right to rescind a decision or a judgment in order to increase the punishment upon those so imposed or increase the charges against those who had received a favorable decision to lessen charges brought against them.

In the consideration of a case, the Appeals Court has the right to render a decision as well as to mete out punishment against a party who has received a sentence. When it is necessary to increase a punishment, the Appeals Court must rescind the decision and send the case dossier to the Court of First Instance for reconsideration.

In the consideration of a case, the Appeals Court does not have the right to determine any cause which the evidence does not reference in the judgment.

In the rescission of a judgment of the Court of First Instance or the judgment of the Court of Recession, the Appeals Court does not have the right to issue opinion and decide in advance regarding matters which the Court of First Instance or the Court of Recession shall be reconsidering.

**Article 90: Reconsideration of a Case at the Court of First Instance After the Appeals Court has Rescinded that Court's Decision**

After the Appeals Court has rescinded the decision and has ordered that the Court of First Instance render a new decision, the consideration of the case shall be performed in Accordance with regulations provided for in Article 77 of this Law.

## Chapter 2

### *The Re-opening of a Case in the Case that New Conditions or New Evidence is Discovered*

#### **Article 91: The Acceptance of a Case which is Reopened for Consideration at the Appeals Court**

Absolutely effective decisions or judgments may be reopened in the case that there is discovery of new conditions or evidence.

The Appeals Court can accept a criminal case which has been reopened in the case that there is discovery of an appeal specifically from a former public prosecutor.  
request for an appeal specifically from a former public prosecutor.

#### **Article 92: Cases for the Reopening of a Case in the Case that there is a Discovery of New Conditions or Evidence**

Cases for the reopening of a case in the case that there is discovery of new conditions or evidence are:

1 Case witnesses have given false statements or experts have give false opinions, there was use of falsified evidence or the translation was false. Which cased a decision to be render erroneously.

2 The judge, public prosecutor, the civil servant interrogator or the investigating-interrogating official is biased which bias cased a decision to be rendered erroneously.

3 Other cases which indicate error or innocence of the party against whom a decision was rendered which the court did not have knowledge of during the rendering of the first decision.

#### **Article 93: Time period for the Re-opening of a Case in the Case that there is Discovery of New Conditions or Evidence**

The reopening of a case in the case that it is seen that new evidence or conditions have been discovered shall be conducted only with one year only from the date that the new criminal liability shall be conducted only within one from the date that the new conditions or evidence was discovered. The reopening of a case to lighten or discharge the criminal liability a party against whom a decision was rendered may be conducted at any time without limitation.

Death of the party against who a decision was rendered shall not interfere with the reopening of a case for the purpose of searching for the truth regarding the charges made

against that concerned individual.

**Article 94: The Comment of investigation-Interrogation of a Criminal Case in the Case that New Conditions or Evidence is Discovered.**

Individuals, enterprises, organizations or civil servant who discover new conditions or evidence regarding a case which has had an absolutely effective decision or judgment rendered upon it must submit their own application or must notify the public prosecutor. When there exists any cause which is provided for in Article 92 of this Law, the public prosecutor must issue an order to commence investigation-interrogation regarding such discovery of new conditions or evidence.

In the case that the public prosecutor deems that it is unreasonable to reopen a case, the public prosecutor must issue an order to disallow the commencement of investigation-interrogation. The order to disallow the commencement of investigation-interrogation of the public prosecutor must be notified to relevant individuals, enterprises, organizations and civil servants and then such relevant persons shall have the right to request a revocation of such order to a higher level public prosecutor.

**Article 95: Activities of the public prosecutor after the End of the investigation-Interrogation Arising from the Discovery of New Conditions or Evidence**

After the investigation-interrogation arising from the discovery of new conditions or evidence has ended, if it is deemed that there is sufficient cause to reopen the case, the public prosecutor must send the case dossier along with various documents from the investigation-interrogation and his own statement to the former public prosecutor to request an appeal to the Court of Appeals of the decision on the case which has been reopened. If, however, it is deemed that there is insufficient cause to reopen the case the public prosecutor must issue an order to close the case and notify such order to the relevant individual, enterprises, organizations. or civil servants, and then those relevant persons shall have the right to request a revocation of such order to a higher level public prosecutor

**Article 96: Judgments of the Appeals Court in the Case of the Discovery of New Conditions of Evidence**

In the case that there is discovery of new conditions or evidence, the Appeals Court has the right to issue a judgment that:

- 1 Dismisses the request for appeal of the former public prosecutor;
- 2 Rescind a court decision or judgment and then return the case dossier for a new judicial committee's consideration;
- 3 Rescind a decision or judgment and close a case.

\* \* \* \* \*

Please Note: ~~strikethrough~~ = deletions required by 1992 amendment to this Law  
Double underlines = additions required by 1992 amendment to this Law