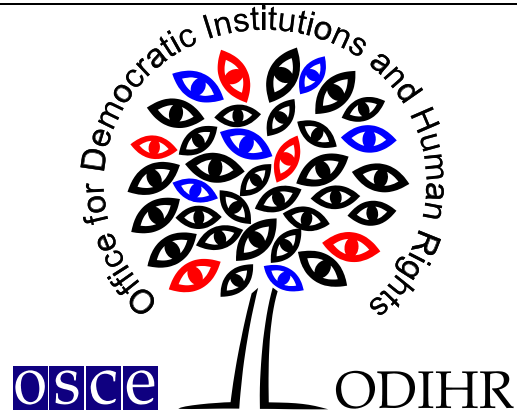


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OPINION

ON THE DRAFT CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ARMENIA

Based on an unofficial English translation of the Draft Law

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Annex 1: Draft Criminal Procedure Code of the Republic of Armenia

I. INTRODUCTION

1. *On 1 February 2013, the Minister of Justice of the Republic of Armenia sent a letter to the Head of the OSCE Office in Yerevan requesting an OSCE/ODIHR expert assessment of the Draft Criminal Procedure Code of the Republic of Armenia (hereinafter, “Draft Code”). The OSCE Office in Yerevan forwarded the request to the OSCE/ODIHR and thereafter, on 1 March, also provided an unofficial English translation of the Draft Code.*
2. *This Opinion is provided in response to the Minister’s above-mentioned request, by virtue of OSCE/ODIHR’s mandate to, upon request, provide assistance to legislative reforms in OSCE participating States.*

II. SCOPE OF REVIEW

3. The scope of the Opinion covers key aspects of the above-mentioned Draft Code, submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of all framework legislation regulating criminal procedure in the Republic of Armenia. The OSCE/ODIHR reiterates that the recommendations which it made in previous reviews on certain aspects of the criminal procedure law of the Republic of Armenia remain valid.¹
4. The Opinion raises key issues and indicates areas of concern. In the interests of concision, the Opinion focuses on problematic areas rather than on the positive aspects of the Draft Code. The ensuing recommendations are based on relevant international rule of law standards and OSCE commitments, as well as good practices from the OSCE region.
5. This Opinion is based on an unofficial translation of the Draft Code. Errors from translation may result.
6. In view of the above, the OSCE/ODIHR would like to make mention that this Opinion is without prejudice to any written or oral recommendations and comments to the Draft Code or related legislation that the OSCE/ODIHR may make in the future.

III. EXECUTIVE SUMMARY

7. The OSCE/ODIHR believes that the Draft Code is generally compliant with international standards and relevant good practice, and contains many novel and progressive institutions and procedures. At the same time, in order to further improve its compliance with international standards, it is recommended as follows:

¹ See, in particular, the *OSCE/ODIHR Opinion on Draft Amendments to the Criminal Procedure Code of the Republic of Armenia* (12 November 2010); *Note on the Concept Paper on the Reform of Criminal Procedure Legislation in Armenia* (4 November 2010); and the *Opinion on the Draft Law Amending the Section on Pre-Trial Proceedings in Criminal Cases of the Criminal Procedure of the Republic of Armenia* (15 July 2009). All reviews are available online at <http://www.legislationline.org/search/runSearch/1/country/45/rows/10/type/2>

1. Key Recommendations

- A. to clarify what could be the outcome of the regular proceedings re-instituted upon the accused person's objection to the termination of proceedings under Article 12 par 4 [par 13]
- B. to clarify that the principle of publicity of proceedings applies only to court proceedings [par 14]
- C. to expressly include, in the wording of the prohibition from Article 18 par 6, also "inhuman and degrading treatment and punishment" [par 15]
- D. to reconsider the "deviation" from the equality of arms principle in the cassation proceedings, and to allow the defendant's participation therein [par 16]
- E. to ensure that in cases of revised accusations, the defendant is properly notified and afforded adequate time and facilities to prepare the defense [par 18]
- F. in Article 28, to reflect more precisely the grounds for the exclusion of the public – which should be the ones outlined in Article 6 ECHR – and to bring into harmony Articles 28 and 274 of the Draft Code [pars 20 and 47]
- G. to expressly prescribe, in the section on the principles of the criminal proceedings, the principle of judicial independence (and impartiality) [par 21]
- H. in Article 46, to ensure that the mandatory participation of the defense council is also be allowed in court proceedings [par 24]
- I. to ensure that the difference in the status and position of experts appointed by the authorities, and experts retained by the defense, does not result in a violation of the equality of arms principle [par 27]
- J. to revise Article 65 by providing that the disqualification of a judge shall be decided by another judge or panel of the court, or eventually the president of the respective court, rather than by the respective judge himself or herself [par 28]
- K. in Article 97 par 10, to provide that evidence recognized as impermissible shall be removed from the case-file [pars 30-31]
- L. to reconsider the rule from Article 116 par 3 subpar 2, according to which no reasons have to be given for an initial detention in case of a grave or particularly grave crime [par 33]
- M. to expressly prescribe that any person who had been the victim of arrest or detention in violation of the provisions of the Code shall have an enforceable right to compensation [par 34]
- N. to amend Article 122 by authorizing exclusively the court to grant bail [par 35]

- O. to revise Article 172 by prescribing stricter chronology for the calculation of the time-periods of restraint measures such as deprivation of liberty [par 39]
- P. to amend Article 252 by prescribing a procedure through which any person affected by an undercover action is notified after the event [par 45]
- Q. to permit the conducting of the additional court hearing only in the presence of the convicted person and counsel in the case of Article 351 par 1 subpar 2, unless the defense has unequivocally waived their right to participate [pars 53-54]
- R. to reconsider certain provisions related to the returning of cases to the first instance court for re-examination [pars 56-57]
- S. to clarify certain provisions related to the cassation proceedings [pars 58-60]
- T. in cases involving persons who, subsequent to the perpetration of the crime, developed a mental disorder that renders the imposition or the execution of the sentence impossible, to provide that proceedings shall be suspended until the recovery of the person [par 64]

2. Additional Recommendations

- U. to consider prescribing among the jurisdictional rules that the law of the requesting state shall not be applied if it violates the constitutional principles of the Republic of Armenia [par 10]
- V. to define the term “minor” in Article 6 of the Draft Code [par 11]
- W. to clarify certain provisions in Article 129; Articles 292 and 294; Article 107, Article 140, Article 202; Article 228; Article 258; Article 332; Article 409 [paragraphs 11; 23; 32; 36; 42; 43; 46; 51; 62]
- X. to harmonize Article 12 par 2 and Article 6 par 40 [par 12]
- Y. to ensure that the defense is given the opportunity to draw the attention of the Prosecutor General to the need to initiate a cassation procedure [par 17]
- Z. in Articles 50 and Article 58, to limit the exemption from the duty to testify to cases when the victim/witness by testifying or providing materials would *incriminate* himself or herself or his/her relatives [par 25]
- AA. to consider authorizing the court, rather than the body conducting criminal proceedings, to rule on an attorney’s dismissal [par 29]
- BB. in order to safeguard the right to effective defense, to prescribe that when the accused is removed from the courtroom (because of repeated disobedience or contempt), the participation of the defense counsel shall be mandatory, and that the accused would then hear a summary of the evidence that was examined by the court in his or her absence [par 38]

- CC. to extend the prohibition of using language that may infringe the presumption of innocence to *all* cases where the person has no opportunity to enforce the continuation of the proceedings with a view to having his or her innocence declared by a court judgment [par 40]
- DD. to consider introducing additional safeguards for searches conducted in a lawyer's office as well as in a notary's office or in a medical institution or medical reception rooms [par 44]
- EE. to reconsider and redraft the Article 284 paragraphs 6 and 7 [par 48]
- FF. in Article 336, to provide that if a witness, who had testified at the pre-trial phase, later at trial makes use of their privilege not to testify, the disclosure of pre-trial testimony shall not be permitted [par 52]
- GG. to consider automatically granting an appeal for extraordinary review in cases where a law is passed decriminalizing a certain act [par 61]
- HH. to ensure that a sufficiently long *vacatio legis* is provided for [par 65].

IV. ANALYSIS AND RECOMMENDATIONS

1. Preliminary Remarks

8. Overall, the Draft Code takes into account the standards laid down in global and regional human rights instruments and international documents on procedural arrangements. With some exceptions, the provisions of the Draft Code are in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter, "ECHR")² and the jurisprudence of the European Court of Human Rights (hereinafter, "ECtHR"), as well as with relevant Recommendations of the Council of Europe's Committee of Ministers, such as Rec(97) 13 Concerning Intimidation of Witnesses and the Rights of the Defense,³ Rec(87) 18 Concerning the Simplification of Criminal Justice,⁴ or Rec(2006) 8 on Assistance to Crime Victims.⁵ The draft provisions aim at expediting criminal proceedings;

² Council of Europe *Convention for the Protection of Human Rights and Fundamental Freedoms* (signed on 4 November 1950 entered into force on 3 September 1953; ratified by the Republic of Armenia on 26 April 2002).

³ Rec(97) 13 *Concerning Intimidation of Witnesses and the Rights of the Defense*, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=566782&SecMode=1&DocId=574856&Usage=2>

⁴ Rec(87) 18 *Concerning the Simplification of Criminal Justice*, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=608011&SecMode=1&DocId=694270&Usage=2>

⁵ Rec(2006) 8 *On Assistance to Crime Victims*, available at <https://wcd.coe.int/ViewDoc.jsp?id=1011109&Site=CM>

guarantee defendants' due process rights; protect victims and witnesses; and provide for victims' participatory rights. Commendably, the Draft Code expressly provides for the primacy of international treaties over the provisions of the Code, in case of conflict.⁶ It is also positively noted that some of the novel provisions of the Draft Code take due account of the recommendations which the OSCE/ODIHR had put forward in its *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*.⁷

9. It may be noted that the Draft Code deviates from Western European-type criminal procedure laws in that, unlike the latter, it contains detailed provisions which address the internal relations within the law enforcement agencies and the relations between the investigatory bodies and the prosecution service. Examples of such provisions can be found, for instance, in Articles 37 and 38 of the Draft Code on the powers of higher-ranking and supervising prosecutors during pre-trial proceedings. Conversely, "Western"-type criminal procedure laws usually contain only provisions regulating the relationship between so-called public and private participants. However, the option chosen by the drafters of the Draft Code does not raise human rights concerns.

2. Detailed Analysis of the Draft Law

A. General Provisions

10. The General Provisions of the Draft Code, amongst others, set out the jurisdictional rules. Under Article 3 par 1, criminal proceedings in Armenia shall follow the provisions of the Draft Code, irrespective of the place of perpetration. Paragraph 2 of the same Article provides that the Draft Code shall similarly apply to proceedings on alleged crimes committed outside the borders of the Republic of Armenia on board any air, sea or river vessel registered in an airport or seaport of the Republic of Armenia, lawfully under the flag of the Republic or bearing its insignia. The latter provision mirrors Article 14 par 4 of the Criminal Code of Armenia on territorial jurisdiction, albeit imperfectly (minor discrepancies might be the result of translation into English). The provisions on the applicability of the Draft Code in proceedings conducted outside Armenia and on the applicability of foreign law when assistance is requested by an international or a foreign court (Article 3 par 4) are in line with new trends in mutual legal assistance in criminal proceedings. In this context, it may be noted that many codes of criminal procedure also provide that even if an international treaty permits the application of the law of the requesting state, such law shall not be applied if it violates the

⁶ Article 3 par 1 of the Draft Code. See also Article 16 par 4 of the Draft Code, which reiterates that ECtHR judgments are binding on the body conducting criminal proceedings. See also Art. 6 par 4 of the Constitution of the Republic of Armenia (of 5 July 1995, with subsequent amendments).

⁷ See the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*. The report is available online at <http://www.osce.org/odihr/41695>

constitutional principles of the requested state. The drafters might wish to incorporate such a rule among the jurisdictional provisions of the Draft Code, unless it is already set out in the respective treaties themselves.

11. Article 6 provides for a relatively long list of definitions and key terms used in the Draft Code. It is recommended to similarly define the term “minor”, therein. While the definition of “minor” can be inferred from Article 416 – which provides that the rules on proceedings concerning a crime attributed to a minor “shall apply in proceedings concerning persons that have not reached the age of 18 at the time of arrest or at the time of presenting the Accusation” – the drafters may still wish to define the term in Article 6, both in the interests of legal certainty and also because the term appears (undefined) in a number of provisions prior to Article 416 (for example, in Articles 44, 53, 69, 129 and others). In addition, it is not completely clear whether, for instance, the educational supervision by parents (and others), which is prescribed by Article 129 but is not mentioned in Chapter 51 on proceedings concerning crimes attributed to a minor, could still be exercised if the accused reaches the age of 18 while the proceedings are still in progress. It is recommended to clarify this.
12. Article 12 prescribes the circumstances precluding criminal prosecution. Under Article 12 par 2, the accused is entitled to rehabilitation – defined as restitution under Article 6 par 40 – in the cases set out in sub-paragraphs 1 through 4 of paragraph 1 of the same Article. The respective provisions go beyond the requirements of Article 7 of Protocol 3 to the ECHR,⁸ which obliges state parties to compensate only if the conviction is reversed and it can be shown that there has been a miscarriage of justice, and only if the person suffered punishment as a result of the conviction (unless it is proved that the non-disclosure of the unknown fact in time was wholly or partly attributable to him). With respect to rehabilitation, it may also be noted that there appears to be a certain disharmony between the wording of Article 12 par 2 and Article 6 par 40. According to the latter, rehabilitation means “restitution performed in accordance with the legislation of the Republic of Armenia on behalf of the Republic of Armenia for the benefit of the *Acquitted*” (emphasis added), whereas the former provides for rehabilitation/restitution in the case of *termination* of criminal prosecution, which may also occur without a court decision acquitting the defendant. It is recommended to harmonize these provisions.
13. Under par 4 of Article 12, the termination of criminal prosecution based on the lapse of the statute of limitations, by a general amnesty or by the decriminalization of the respective conduct, “shall not be permitted if the

⁸ See Article 3 of Protocol No. 7 (of 22 November 1984) to the ECHR; ratified by the Republic of Armenia on 26 April 2002.

person objects to it”. In such cases, criminal proceedings may not be terminated and will have to continue under the regular procedure. The solution adopted by the Draft Code is rather unusual (though not entirely exceptional, as similar rules may be found in other countries) – but is nonetheless in line with the rules on the presumption of innocence.⁹ The termination on the above-mentioned grounds may namely make the impression that the accused had actually committed the criminal offense in question. It is however not clear if the regular procedure conducted following the accused person’s objection to the termination of proceedings, may end with a verdict of guilty, or if, in case the accused is not acquitted, proceedings will have to be terminated with reference to the expiration of the statute of limitation, amnesty or decriminalization. One could argue that by objecting to the termination of proceedings, the accused accepts the risk of being ultimately convicted. However, it would run counter to the principles of the rule of law to convict and sentence someone for conduct that could not have been prosecuted due to the statute of limitation, or for conduct that, at the time of adjudication, does not constitute a criminal offense. At the same time, it may appear unreasonable to permit the accused to insist on regular criminal proceedings if such proceedings may then only conclude with either an acquittal or a decision that he or she refused to accept. In the case of a general amnesty, the objection to the termination of proceedings can more easily be justified since no one can be forced to accept the “generosity” of the Parliament, and in that case there are no rule-of-law concerns if the regular proceedings end in a guilty verdict. It is therefore recommended to more clearly prescribe what could be the outcome of the regular proceedings re-instituted upon the accused person’s objection to the termination of proceedings on the above-mentioned grounds.

14. Chapter 3 of the Draft Code prescribes the principles underlying criminal proceedings. In general, the respective list seems comprehensive, and the principles well-selected. Article 15, which prescribes the “publicity of proceedings” and provides that “the conduct of proceedings is a public activity [...]”, raises the question whether pre-trial proceedings, namely criminal investigations, are also meant to be [open to the] public. It is usually the rule that criminal investigations are confidential, and that only court proceedings are public. Unless owing to imprecision in translation (it is noted that the Draft Code uses the terms “criminal proceedings” and “proceedings” distinctly, although no explanation is given for the distinction), it is recommended to clarify that the principle of publicity of proceedings applies only to court proceedings (as is explicitly mentioned in Article 28).

⁹ See *Adolf v. Austria*, ECtHR Judgment of 26 March 1982 (application no. 8269/78), paragraphs 35-41.

15. Article 18 par 6 sets out the prohibition against “torture or unlawful physical or mental violence [...], or other cruel treatment”. In order to more accurately reflect the wording of the ECHR – whose provisions, along with the case-law of the ECtHR, are binding on the bodies conducting criminal proceedings¹⁰ – it is recommended to expressly include, in the wording of the prohibition, also “inhuman and degrading treatment and punishment”, which is expressly prohibited by international law, and which is distinct from “torture” as such.¹¹
16. Article 21 par 1 appears somewhat problematic in so far as it permits “deviation” from the equality of arms principle in the cassation proceedings and in the extraordinary review proceedings. It bears recalling in this context that the ECtHR, in a series of cases brought against Belgium, France and the Netherlands, found a breach of Article 6 ECHR on the grounds of violation of the equality of arms principle exactly in cassation proceedings.¹² In the provisions of the Draft Code, the deviation from the equality of arms principle is reflected in the provisions authorizing the prosecutor to participate in hearings before cassation courts (Article 39 par 10), while denying the defendant the right to be present at such hearings (Article 43 par 26) – although this is to some extent counterbalanced by the fact that defense council may attend such hearings (Article 49 par 15). Since in cassation proceedings, both factual and legal issues are reviewed (see Chapter 48 of the Draft Code), it is recommended to reconsider the above-mentioned provisions and to permit the defendant’s participation in the cassation procedure, as otherwise he/she would be deprived of the opportunity to instruct his or her defense council in such proceedings. Although defense council, under the civil law approach, is an autonomous participant in proceedings, and not “simply” the defendant’s representative as in the common law system, it is essential that the defendant is given the opportunity to consult with his/her council both prior to and *during* the hearing.
17. Related to the above, it is also noted that only the Prosecutor General and his or her deputies may appeal to the court of cassation against a decision rendered by the appellate court (see Articles 358 par 3 and 359 par 2). Since one of the rationales of the cassation procedure is to ensure the uniform application of the law, the respective provisions are acceptable provided that the defense is given the opportunity to draw the attention of the Prosecutor General to the need to initiate a cassation procedure. It is recommended to ensure the latter condition.

¹⁰ See Article 3 par 1 and Article 16 par 4 of the Draft Code.

¹¹ See Article 3 ECHR and, in particular, Article 7 of the International Covenant on Civil and Political Rights (ICCPR).

¹² See *Borgers v. Belgium*, ECtHR Judgment of 30 October 1991 (Application No. 12005/86); *J.J. v. The Netherlands*, ECtHR Judgment of 27 March 1998 (Application No. 9/1997/793/994); *Vacher v. France*, ECtHR Judgment of 17 December 1996 (Application No. 20368/92); *Berger v. France*, ECtHR Judgment of 3 December 2002 (Application No. 48221/99).

18. In line with the civil law tradition, Article 21 par 5 provides that “the court is not bound by the legal assessment of the act attributed to the accused.” It should be noted, however, that in such cases, to comply with Article 6 of the ECHR, the defendant has to be notified if the court is of the view that the legal qualification of the act may be altered. Otherwise, the defendant’s right to be informed in detail of the nature and cause of the accusation against him, and his right to have adequate time and facilities for the preparation of the defense, would be infringed.¹³ It is therefore recommended to include such a rule, for instance in Article 284 par 4 on revised accusations/indictments.
19. Article 22 par 7, prescribing that a conviction may not be based “solely or predominantly” on the testimony of a person whom the accused or his or her defense council had no possibility of cross-questioning, is a commendable incorporation of relevant ECtHR case-law,¹⁴ and represents an important fair trial safeguard.
20. According to Article 28, court hearings are generally public, but the court may, *ex officio* or upon the request of a party, decide that the hearing or part of it should be conducted *in camera*, “provided that this will not result in an unjustified limitation of the publicity principle”. It is recommended to add to this provision the grounds listed in Article 6 par 1 ECHR which may justify the exclusion of the public (i.e., morals, public order or national security in a democratic society, interests of juveniles or the protection of parties’ private lives, or in other special circumstances where publicity might prejudice the interests of justice). It is noted that Article 169 mentions respect for family life and private life among the grounds that may justify an *in camera* hearing; since this provision is placed among the “Other General Provisions”, in Section 5 of the Draft Code, it appears to apply to criminal proceedings in their entirety. As concerns the trial stage, Article 274 enumerates the cases when the public may be excluded from court hearings, but the wording is not identical with that of Article 6 ECHR (see par 47 *infra*). It is recommended to reflect more precisely the grounds for the exclusion of the public, which should be the ones outlined in Article 6 ECHR, and to bring into harmony Articles 28 and 274 of the Draft Code.
21. It is also recommended to prescribe, in the section on the principles of the criminal proceedings, the principle of judicial independence (and impartiality). While Article 15 mentions that “when administering justice or securing other judicial safeguards, a judge must be and appear impartial”, there seems to be no mention of the requirement of judicial independence anywhere in the Draft

¹³ See *Pelissier and Sassi v. France*, ECtHR Grand Chamber Judgment of 25 March 1999 (Application No. 25444/94); and *Dallos v. Hungary*, ECtHR Judgment of 1 March 2001 (Application No. 29082/95).

¹⁴ See *Unterpertinger v. Austria*, ECtHR Judgment of 24 November 1986 (Application no. 9120/80), paragraph 33.

Code. In light of the fundamental importance of this guarantee, it is recommended that it be expressly prescribed among the principles of criminal proceedings.

22. Under Article 43 par 11, the accused has the right to participate in evidentiary actions and other procedural actions that are undertaken upon his or her, or defense council's, request. The accused also has the right to inspect the protocols prepared of these actions (Article 43 par 1 sub-paragraphs 11 and 18.). The same applies to defense council, who however may also be granted the right to participate in other actions and have access to the protocols prepared on these actions (Article 49 par. 1 sub-paragraphs 3 and 12). It is noted that the text mentions that this presupposes "the proposal" of the investigator, though it is left unclear which body shall actually decide on defense council's participation. Limited access to the files may become problematic when it comes to the judicial review of the lawfulness of pre-trial detention, as envisaged by Article 5 par 4 ECHR. According to the ECtHR jurisprudence, it might be legitimate to keep part of the information secret during an investigation, in order to prevent that the course of justice is undermined. However, also during the *habeas corpus* procedure the equality of arms principle must be observed, which means that information essential to assess the lawfulness of detention has to be made available to the suspect's lawyer.¹⁵ If properly applied, the provisions on judicial safeguards of the application of restraint measures in Chapter 38 of the Draft Code, may guarantee compliance with ECtHR case-law.
23. Article 294 stipulates that the court hearing on ordering or prolonging restraint measures shall be conducted on the basis of the equality of the parties, and with the mandatory participation of the investigator and the accused. According to Article 292 par 2 subpar 8, the investigator's motion for applying or prolonging the restraint measure shall indicate the justification for the motion. Materials necessary to confirm the substantiation of the motion shall be annexed (Article 292 par 3) and made available to the "defense party" (Article 292 par 7). From these provisions it may be inferred that in the *habeas corpus* proceedings the detained accused will have the right to inspect also documents that he or she is not permitted to inspect under the general rules on accessibility of materials (Article 49 par 1 subparas 3 and 12). Nonetheless, in the interests of legal certainty, it is recommended to clarify and confirm this in the respective provisions of the Draft Code.
24. Article 46 lists the cases of mandatory defense. It is not clear why mandatory participation of defense council is limited to the period "from the moment of

¹⁵ See *Garcia Alva v Germany*, ECtHR Judgment of 13 February 2001 (Application No. 23541/94), paragraphs 42-43; and, very recently, *X.Y. v. Hungary*, ECtHR Judgment of 19 March 2013 (Application No. 43888/08), paragraphs 51-52.

the person's arrest until the moment the accusation is presented". If due to mental or physical handicap, or mental underdevelopment, the accused is not in a position to defend himself or herself effectively (Article 46 par 1 subpar 1), but also in other cases listed in Article 46 par 2m, it is crucial that defense council participates also in *court proceedings*, i.e. *after* the accusation is presented. Unless owing to imprecise translation (perhaps the text should read "from the moment of arrest OR the presentation of the accusation", assuming that suspects are not necessarily arrested), it is recommended to revise this provision.

25. Under Article 50 par 2 subpar 3 and Article 58 par 1 subpar 3, the victim testifying as a witness, and witnesses in general, may refuse to give testimony and provide materials "if they may later be used or construed to their detriment or to the detriment of their spouses or close relatives". Such exemption from the duty to testify appears too broad and may unnecessarily jeopardize an effective defense. It is recommended to limit the exemption to cases when the victim/witness by testifying or providing materials would *incriminate* himself or herself or his/her relatives (unless the provisions already provide so but the translation into English is imprecise).
26. Article 55 lists the rights and obligations of the "property respondent".¹⁶ It appears that the rights enumerated satisfy the requirements of the ECHR, according to which the respondent in criminal proceedings has the right to a fair trial under the civil "limb" of Article 6 ECHR.
27. Article 59 distinguishes between experts appointed by the authorities and those engaged by the private participants in proceedings. The former issue a written "conclusion" while the latter prepare a written "opinion" (see Article 59 paragraphs 1 and 2). The difference between an expert conclusion and an expert opinion remains unclear, though the experts appointed by the authorities seem to enjoy greater prerogatives. Thus, experts who prepare a "conclusion" (i.e., at the request of the body conducting criminal proceedings) have the power to "demand" objects, samples etc., while the experts working on an "opinion" (i.e., at the request of a private participant), need "the permission" of the criminal proceedings body in order to obtain materials relevant to proceedings (see Article 60 par 1 subparas 1 and 2). Furthermore, it seems that certain evidence, such as "the inability of a witness or victim to correctly perceive, memorize and reproduce circumstances that are significant to the proceedings", may only be adduced through a "conclusion" (see Article 107 par 3), which would imply that only the body conducting criminal proceedings can obtain such evidence. It is recommended to reconsider and revise these provisions, given that, under ECtHR standards, the difference in the status and position of experts appointed by the authorities, and experts

¹⁶ Defined in Article 6 par 1 subpar 27 as "a natural or a legal entity that may bear property liability in the cases and procedure provided by law for damage inflicted by an alleged crime".

retained by the defense, should not result in a violation of the equality of arms principle.¹⁷

28. As regards the provisions on disqualification and recusal, the rule from Article 65 par 4 – according to which in case of a “recusal expressed in relation of a judge” it is the judge in question who will “solve the “recusal” – is problematic since in case the judge whose disqualification was requested by one of the participants decides not to withdraw, this may jeopardize the appearance of impartiality. It is therefore recommended that a panel of the court, or eventually the president of the respective court, be authorized to decide on the disqualification. This would align the procedure to the practice of other European countries, which provide that requests for a judge’s recusal shall be settled by another judge or by a separate panel of judges or by a higher court, but not by the respective judge himself or herself.¹⁸
29. Furthermore, according to Article 65 par 7, the body conducting criminal proceedings may dismiss defense council and other private participants. It would run counter to the principle of equality of arms if, for instance, the investigator would have the power to dismiss defense counsel. It is true that most of the grounds precluding the participation of an attorney (Article 68) are formulated in a manner that excludes arbitrary decisions. However, the decision-maker (i.e., the investigator) has some discretion when assessing whether the attorney provided legal assistance to a person *whose interests are in conflict* with the interests of the person assisted by her or him, or whether the attorney has a *relation of personal dependency* with such a person (Article 68 par 1 subpar 3). It is therefore advised to consider authorizing the court to rule on an attorney’s dismissal instead.
30. The provisions on the use and exclusion of evidence are overall in line with international standards in so far as they provide for the exclusion of evidence which is unreliable or was obtained in material violation of the law. However, it is not clear why “evidence recognized as impermissible shall be kept in the materials of the proceedings” (Article 97 par 10). Keeping such “evidence” in the file may lead to situations in which judges are influenced also by illegally obtained evidence, even if they do not refer to such evidence when reasoning their decisions on the merit. It is recommended that the evidence recognized as impermissible be removed from the case-file. It also bears reiterating, in this context, the recommendation made in the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*, that “Rules

¹⁷ See *Bönisch v. Austria*, ECtHR Judgment of 6 May 1985 (Application no. 8658/79), paragraphs 33-35.

¹⁸ See, for instance, Articles 670 and 674 of the Criminal Procedure Code of France; Article 40 of the Criminal Procedure Code of Italy; Section 27 of the Criminal Procedure Code of Germany; Article 42 par 2 of the Criminal Procedure Code of Poland; Article 35 par 1 of the Criminal Procedure Code of R. Moldova; Article 67 of the Criminal Procedure Code of Romania; Chapter 4 Article 15 section 3 of the Code of Judicial Procedure of Sweden.

on the inadmissibility of evidence in the Code of Criminal Procedure should clearly state the standard of proof needed to exclude tainted evidence”.¹⁹

31. The above recommendation is particularly relevant given that, under Article 66 par 2, the judge conducting the preliminary hearing – as is common in many jurisdictions – may also serve as the trial judge on the case. Given that at the preliminary hearing, the judge rules on evidence admissibility and decides what evidence shall be examined at trial (see Article 326), this means that the [trial] judge inevitably gets acquainted also with the evidence declared impermissible, and is possibly influenced by it. Article 326 par 4, which stipulates that “impermissible evidence shall be removed from the list of evidence subject to examination, but shall be retained in the criminal case file”, may serve to preclude that *reference* is made to unlawfully obtained evidence in the judgment, but does not ensure that the judge will not be *influenced* by such evidence when assessing the weight of other pieces of evidence examined at the trial. For these reasons, it might be appropriate to consider assigning the preliminary hearing and the decision on evidence admissibility to a judge other than the trial judge, if the exclusion of evidence is requested by the parties. Alternatively, the impermissible evidence could simply be removed from the case-file, as recommended above.
32. Chapter 12 prescribes the rules of the evidentiary procedure (“The Proving”) starting with the list of facts that have to be proven in the course of proceedings (Article 102). It is noted that the list does not contain some circumstances that may be relevant for the application of procedural norms. It is left unclear if that means, for instance, that facts that may lead to the disqualification of the judge, or others, need not be proven. Furthermore, Article 107 lists the facts that have to be proven by a certain type of evidence. That raises the question of whether the list is exhaustive, which if so would mean that the spousal relationship, for instance, which may exempt certain persons from testifying (Article 58 par 1 subpar 3), does not have to be proven by an official document. It is recommended to clarify such matters.
33. Most of the provisions of Section 4 on “Coercive Measures” applied during criminal proceedings are in line with international standards. It is commendable that authorities are obliged to inform the arrested person both orally and in writing about his or her rights (Article 110 par 2 subpar 1, and Article 110 par 5 subparagraphs 1 and 2), and it is similarly welcome that the Draft Code provides for a rather high number of alternatives to detention. On this point, the recommendation made in the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)* should be recalled, namely that courts make appropriate use of such alternatives to

¹⁹ See the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*, section on “Concluding Recommendations”, p. 9 (page 88).

detention.²⁰ It is further noted that, under Article 116 par 3 subpar 2, no reasons have to be given for an initial detention (it is assumed that this means detention for the first month – see Article 119 par 2) in case of a grave or particularly grave crime, which is somewhat problematic. This would appear to imply that, for instance, the risk of absconding is presumed on the basis of the severity of the punishment that can be meted out for the given criminal offense. This, of course, makes it rather difficult for the defense to challenge the decision to detain. It bears recalling that the ECtHR has held that the danger of absconding cannot be gauged solely on the basis of the severity of the sentence risked and that it must be assessed with reference to other relevant factors too.²¹ It must be noted, however, that the respective ECtHR case concerned the applicant's *continued* detention, which had been ordered with reference to, among others, the seriousness of the alleged offences. In any case, it is recommended to further consider the respective provision.

34. Article 114 regulates the release of an arrested person, among other situations when “the person was deprived of liberty with a material violation of the arrest procedure”. It is recommended to add a provision, whether here or in another relevant Article of the Draft Code (such as Article 18 on liberty and security of persons), to expressly prescribe that any person who had been the victim of arrest or detention in violation of the provisions of the Code shall have an enforceable right to compensation, in line with Article 5 par 5 of the ECHR.
35. It is appreciated that from among the alternative restraint measures, house arrest and administrative supervision can only be ordered by the court (Article 122 par 3). In contrast, bail may be granted in the pre-trial phase of the proceedings also by the investigator and the prosecutor (Article 122 par 4 subpars 1 and 2). Since bail is traditionally understood as an alternative to detention, and since detention may be ordered only by a court, it is recommended to authorize exclusively the court to grant bail.
36. Article 140 regulates the procedure of medical supervision in a psychiatric institution. It is assumed that only the defendant, and not any “person”, may be subject to such supervision. This interpretation seems to be supported by Article 140 par 2 and also by the wording of Article 428. If this interpretation is correct, it is recommended to reformulate the text in Article 140 par 1 so that it clearly refers to “the defendant”.
37. Article 141 lists, among other procedural sanctions, also the removal from the courtroom. According to Article 144 par 1, any “participant” may be subjected to procedural sanctions, which means that both public and private participants can be removed from the courtroom. There is no rule in the

²⁰ See the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*, section on “Concluding Recommendations”, p. 16 (page 90).

²¹ See *Tomasi v France*, ECtHR Judgment of 27 August 1992 (Application no. 12850/87), paragraph 98.

respective Article on what procedure to follow when the prosecutor is removed; however, Article 280 par 2 provides that the removed prosecutor has to be replaced “if the continued participation of the prosecutor is impossible due to the removal of the public accuser from the proceedings or another reason, he shall be replaced with another prosecutor”. It is unclear what is meant by the term “continued participation”, in this context. If it means “further / future / subsequent participation”, then it raises no concern. What is important is that the trial should not be conducted in the absence of the prosecutor, not even for a relatively short period of time, since in that case the court would have to assume the role of the accuser, which is impermissible.

38. In case of repeated disobedience and contempt by the accused, the court may remove him or her for the rest of the trial and proceed in his or her absence (Article 144 par 4). To safeguard the right to effective defense, it is recommended to prescribe the mandatory participation of defense counsel in such cases. Article 144 par 4 further provides that even where the accused was removed for trial, he or she has to be present during “the publication of the conclusive judicial act”. The right to defense would be better served if the accused were permitted to return to the courtroom after all evidence has been examined, and hear a summary of the evidence that was examined by the court in his or her absence. It is recommended to consider prescribing such a procedure.
39. Article 172 prescribes the procedure for calculating time periods defined by the Draft Code. Thus, par 3 provides that “when counting a time period in days, the time period begins from the zero hour of the night of the first day [...]” and also that “if the day on which a time period ends is not a working day, then the first working day following it shall be considered the last day of the time period”. It is recommended that such relatively lax counting rules do not apply in the case of restraint measures such as deprivation of liberty, to which precise chronology – at least, by the hour – should apply.

B. The Preliminary Proceedings

40. Article 195 regulates the procedure for discretionary criminal prosecution. The provisions on the victim’s right to enforce review of the prosecutor’s decision not to prosecute or to terminate prosecution, by a higher prosecutor and by the court (Article 195 pars 2 and 5, and Article 199 par 6), is in line with the recent trend of recognizing victims’ needs, and represents an important safeguard against possible prosecutorial abuse. In line with the case-law of the ECtHR,²² Article 199 par 5 prescribes that the decision not to prosecute or to terminate proceedings based on certain grounds may not contain “language that casts doubt on the person’s innocence”. However, it

²² See *Minelli v. Switzerland*, ECtHR Judgment of 25 March 1983 (application no. 8660/79).

will rarely occur that in a decision based on proven innocence, or on the fact that the conduct does not constitute a criminal offense, language violating the presumption of innocence would be used. That is more likely to happen in the case of decisions based on other grounds listed in Article 12, such as the suspect's death or the expiry of the statutory period of limitation. It is therefore recommended to extend the prohibition of using language that may infringe the presumption of innocence to *all* cases where the person has no opportunity to enforce the continuation of the proceedings with a view to having his or her innocence declared by a court judgment.

41. According to Article 200, the decision to not initiate or terminate prosecution can be annulled by a supervising prosecutor and, in higher instance, by the Prosecutor General, even in the absence of an appeal, within three months of its entry into force. The Prosecutor General may annul such a decision even after the expiry of three months, but only in case new circumstances come to light (Article 200 par 3). This appears to imply that within three months, the prosecutor's decision not to proceed or to terminate prosecution can be overruled even in the absence of new circumstances. Since the three-month period is relatively short, this provision does not violate the requirement of legal certainty. At the same time, fairness may require that the person is informed of the fact that the decision may be overruled.
42. Article 202 sets out the rules on the inspection of the criminal case-file before the "preparation of the accusatory conclusion". Paragraph 6 of the Article provides that the investigator may set a "reasonable period" within which the files may be studied. It bears recalling that Article 6 par 3 letter "b" of the ECHR provides that everyone charged with a criminal offense has the right "to have adequate time for the preparation of his defense". This should be borne in mind when the respective time period for the case-file inspection is set.
43. Article 228 specifies the modalities of questioning an accused. Paragraph 4 of this provision contains a commendable list of all the information that has to be given to the accused before he or she is questioned by the investigator. At the same time, this provision states that if the accused is prepared to testify, he or she must be informed of "the obligation to tell the truth and the liability prescribed for giving false testimony". It is not quite clear if this shall apply only to situations where the accused testifies as a witness and is therefore generally criminally liable of perjury, or whether such liability arises only in the case of falsely accusing another person, as is the case in countries following the civil law model of criminal procedure. Under the civil law approach, the testimony of the accused is an independent source of evidence and the accused is not under an obligation to tell the truth. If, however, the accused testifies as a witness and is thus under an obligation to tell the truth and faces prosecution for perjury, then Article 336 par 3 may be problematic. It also provides that the testimony given by the accused before the investigator

may not be disclosed if it was obtained in the absence of a defender and the accused claims at trial that “it was erroneous”. While this provision, in and of itself, is an important safeguard against forced confessions and pressured testimonies, it might also lead to a situation in which the accused could be prosecuted for perjury for having given an untruthful testimony, provided that “erroneous” (in Article 336 par 3) is the equivalent of un-“truthful”, or “false” (in Article 228 par 4). It is recommended to clarify these provisions.

44. Under Article 241 par 2, the search of a “house” can only be authorized by a court. In this context, it is somewhat unclear – possibly as a result of translation – whether medical reception rooms and premises in medical institutions are also covered by the term “office”, contained in the definition of “house” in Article 6 par 53, and therefore qualify as a “house” that can be searched only by court order. Furthermore, it must be noted that according to the case-law of the ECtHR,²³ additional guarantees may be needed if the search is conducted in a lawyer’s office (for instance, the presence of a representative of the Bar) but also in a notary’s office or in a medical institution or medical reception rooms. It is recommended to consider introducing such additional safeguards.
45. According to Article 252 par 5, the protocol of undercover investigative actions shall be transferred to the investigator, and “may not be transferred to other bodies or persons”. However, there should be a procedure to ensure that the person affected by the undercover action is notified after the event. In the absence of legal provisions on notification and on the system of remedies for the ordering and execution of undercover measures, anyone can claim to be a victim of a violation of the right to respect for private and family life under Article 8 of the ECHR.²⁴ It is therefore recommended to prescribe a respective notification procedure.
46. Article 258 prescribes the procedure for the simulation of taking or giving a bribe. It is commendable that the simulation is only permissible on the basis of a written statement made by the person who claims to have received an offer to accept or give a bribe (Article 258 par 1). However, it should be ascertained that the statement made by the respective person is likely to be true, since otherwise the simulation may qualify as instigation (or entrapment) and result in a breach of Articles 6 and/or 8 of the ECHR.²⁵

C. The Court Proceedings

47. Article 274 sets forth the rules on the publicity of court proceedings, with the exception outlined in par 2 of the Article. Contrary to Article 6 par 1 of the

²³ See *Niemietz v. Germany*, ECtHR Judgment of 16 December 1992 (Application No. 13710/88).

²⁴ See *Klass v. Germany*, ECtHR Judgment of 6 September 1978 (application No. 5029/71).

²⁵ See *Teixeira de Castro v. Portugal*, ECtHR Judgment of 9 June 1998 (application No. 44/1997/828/1034).

ECHR, the protection of morals, public order and national security are not mentioned among the grounds justifying the exclusion of the public (although “the protection of state secrets” from Article 274 par 2 subpar 4 can be said to be covered by the notion of “national security” from Article 6 par 1 ECHR). Of course, narrowing the grounds for the exclusion of the public raises no concerns, unlike the adding of grounds which are not recognized as legitimate under the ECHR. Such a ground is the protection of banking, insurance, service and commercial secrets as well other secrets “designated by law” (Article 274 par 2 subpar 4). The exclusion of the public with reference to the need to protect such various secrets might be problematic. It is certainly true that the list of the grounds in Article 6 of the ECHR is not exhaustive, given that the public may also be excluded if the court finds that “in special circumstances [...] publicity would prejudice the interests of justice”. However, it can be argued that the interests of justice may not be invoked to justify the exclusion of the public in order to protect, for instance, business secrets. At the same time, both Article 274 par 2 of the Draft Code and Article 6 par 1 of the ECHR make mention of the right to privacy as a ground justifying the holding of an *in camera* hearing, and the ECtHR has given a rather broad interpretation of the right to private life, including therein also activities of a professional or business nature.²⁶ Even so, it is recommended that courts employ great caution when using the power to exclude the public with reference to the protection of banking secrets, business secrets or insurance secrets.

48. Under Article 284 par 6, if the prosecutor, after the examination of all evidence at trial, concludes that the case may not be proven, then he or she shall file a petition in the closing speech proposing the defendant’s acquittal. Although not common in “Western”-type criminal procedure laws, where the prosecutor in such cases would simply drop the charge, the option chosen by the Draft Code raises no concerns. However, the fact that the court is not bound by the prosecutor’s respective petition (Article 284 par 7), appears problematic given that it may run counter to the principle of separation of prosecutorial and judicial functions and also since it may raise doubts as to the court’s impartiality. If the prosecuting party is of the opinion that the defendant may not be held criminally liable, but the court in spite of that convicts the defendant, then not only the defendant, but also objective observers may reasonably question the court’s impartiality. It is understood that the respective provisions are well-intended, aiming to prevent the abuse of prosecutorial powers, and to protect the interests of victims. However, the same goals could be accomplished by placing the prosecutor under an obligation to adduce reasons for his or her belief that the accusation may not be proven, complemented by the already mentioned options for victims to

²⁶ See *Niemietz v. Germany*, ECtHR Judgment of 16 December 1992 (Application No. 13710/88), paragraph 29.

challenge such decision. It is therefore recommended to reconsider and redraft the respective provisions.

49. Chapter 38 on judicial safeguards for the application of restraint measures contains a number of progressive provisions. It appears that the accused and counsel are provided with the necessary materials to enable them to challenge the investigator's position and guarantee the observance of Article 5 par 4 of the ECHR (Article 292 paras 3 and 7). The hearing on ordering or prolonging a restraint measure (detention, house arrest and administrative supervision) is adversarial and conducted on the basis of the parties' equality (Article 294). It may be noted that in most civil law countries, court hearings prior to the trial (for instance, hearings on releasing the detainee and granting bail) are normally closed to the public. The Draft Code follows the common-law tradition in so far as it provides that, as a general rule, the hearings on restraint measures are open to the public, though the court may still decide to hold the hearing in camera (Article 294 par 3). It is laudable that also the detained accused and his or her defender and legal representative may file a petition to the court for release or for the application of an alternative measure of detention (Article 296). The court may either reject the petition or grant it "partially or fully" (Article 296 par. 4). It is noted that the petition must be filed not later than seven days before the end of the detention term and that if the deadline is not observed the court will automatically reject the initiation of proceedings (Article 296 par 2). This seemingly rigid rule raises no problems here, as in order to prolong the detention, a new hearing must be held upon the initiative of the investigator who must submit a petition not later than five days before the end of the detention term (Article 292 par 1 and 6).
50. Chapter 42 (Articles 312-315) prescribes the judicial deposition of testimony. This novel procedure for Armenia – the enactment of which was suggested by the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*²⁷ – should serve as an important tool for preserving witness testimony for use at trial in case a witness dies, becomes ill, or due to fear or other reasons is unable to testify at trial and be subject to cross-examination by the defense. Taken in conjunction with the rules from Article 22 par 7 and from Article 336, the deposition procedure aims to prevent the liberal reading, at trial, of pre-trial statements taken by law enforcement officials – a rather common malpractice (from the viewpoint of adversariality) in the criminal proceedings of many post-soviet countries, including Armenia.²⁸ The new deposition procedure prescribed by the Draft Code compares favorably with similar provisions from European criminal procedure

²⁷ See the OSCE/ODIHR *Final Report on the Trial Monitoring Project in Armenia (April 2008 – July 2009)*, section on "Concluding Recommendations", p. 4 (page 88). The report is available online at <http://www.osce.org/odihr/41695>

²⁸ *Ibidem*, pages 51-52.

codes,²⁹ and represents a commendable step forward for Armenia's criminal procedure.

51. The questioning of persons at trial follows the common-law adversarial model in which an individual is first questioned by the party that petitioned the invitation of the person (Article 332 par 3). Assuming that the accused testifies as a witness – see par 43 above, recommending a clarification on this point – it is assumed that he or she will be first examined by his or her counsel. If however the accused is not represented by counsel, then it is not clear who will first examine the accused. It would also be helpful to clarify this.
52. Article 336 regulates the disclosure of testimony during court examination. Under certain conditions, the testimony given at the pre-trial stage may be disclosed at trial. According to Article 336 par 2, a person's past testimony may be disclosed after the person has been questioned in the trial or if it turns out that his or her "questioning is impossible". This raises the question whether the provision, in addition to the cases explicitly mentioned in Article 336, also extends to testimonies of witness who had testified at the pre-trial phase but who later, at trial, make use of their privilege not to testify (because by their truthful testimony they would incriminate themselves or a relative). With a view to safeguarding family life and private life, as well as with a view to safeguarding the adversarial nature of the trial, it is recommended not to permit the disclosure of pre-trial testimony in this case.
53. From Article 351 on issues subject to discussion during additional court hearings, it appears that the Draft Code follows the bifurcated system of trials which is typical of the common-law model: the trial ends with the rendering of the verdict (guilty or not guilty) and then the sentence is imposed in a separate, additional hearing. At the additional hearing, a number of other issues may be discussed and decided. Although the additional hearing is to be conducted with the participation of the public accuser and the private participants to the proceedings, "the absence of the public accuser and the private participants shall not be an obstacle to conducting the additional court hearing, unless the court decides otherwise" (Article 352 pars 1 and 2). On this point, it bears recalling that according to the case-law of the ECtHR, the right to a fair trial, including the requirement of adversarialness, applies also at the sentencing stage of the trial.³⁰ It is therefore recommended not to permit the conducting of the additional court hearings in the absence of the convicted person and counsel in the case of Article 351 par 1 subpar 2.
54. Holding such hearings in the absence of private participants also appears problematic when matters such as the compensation for the damage caused by

²⁹ See, for instance, the Criminal Procedure Code of Italy, Articles 392, 401 and 403.

³⁰ See *Findlay v. UK*, ECtHR Judgment of 25 February 1997 (Application no. 22107/93) and *T. v. UK*, ECtHR Grand Chamber Judgment of 16 December 1999 (Application No. 24724/94).

the crime, or the issue of restraint measures, form the subject of the additional hearing. In the case of damages, this involves the determination of a civil right, and thus Article 6 par 1 of the ECHR must automatically be respected. When compensation for damages is at issue (and also “solving the property claim”), it is recommended to limit the holding of an additional hearing in the absence of private participants to cases where they have clearly and unequivocally waived their right to be present. The unequivocal waiver of the right to be present by the convicted person and counsel should similarly be a precondition for conducting the hearing in their absence when such hearing concerns or involves the application of coercive measures.

55. As regards the appeals procedure, it is commendable that in order to guarantee the equality of the parties, a copy of the appeal lodged by one of the participants is sent for comments to all participants whose interests are concerned (Article 368). Generally speaking, the powers of the appellate courts are relatively broad; in addition to examining legal issues, they may, within certain limits, also examine new evidence (Art. 372), and therefore the participation of the parties is essential. The appellate court, as a general rule, is bound by “the ground stated in the petition for appeal and the facts confirming it”. It is commendable that additionally, the appellate court is able to surpass the scope of the petition to the benefit of the accused in certain cases (Article 372 par. 1).
56. The Draft Code also prescribes the prohibition of *reformatio in peius* (Article 376 par 2), though it is not clear to what extent this prohibition applies when the case is returned to the first instance court for re-examination (for instance, in the case envisaged in Article 380 paragraphs 3 and 4, or when the case is returned to the first instance court because of the violation of procedural rules). The power of the appellate court to convict an accused who was acquitted by the first instance court (or in cases where the criminal prosecution was terminated), instead of returning the case to the first instance court in cases where the case had previously already been “transferred” back to that court on the same grounds (Article 380 par. 4), appears problematic. First, this provision might appear troublesome from the viewpoint of respect for judicial independence. Presumably, the rationale of the drafters of the Code was that in case the first instance court is not willing to accept the legal position of the appellate court, the procedure may never end. This point is well taken. However, some more informal means such as judicial conferences might perhaps be used to ensure that the position of the appellate court is followed by the lower court, or that the appellate court accepts the position of the first instance court.
57. The provision in question is also problematic because it actually undermines the right to appeal. It is true that, according to Article 2 of Protocol No. 7 to

the ECHR,³¹ the right to appeal may be subject to exceptions if the person concerned was convicted following an appeal against an acquittal. However, it is also noted that the Constitution of the Republic of Armenia provides that “[e]very convicted person shall have the right to review of the judgment passed on him or her by a higher instance court”,³² without making mention of any exception in that regard. It is therefore recommended to reconsider the respective provisions.

58. As regards cassation proceedings, it bears recalling that typically, cassation courts rule on legal issues. The power of the Armenian Cassation Court is broader, since in addition to legal questions it may also deal with factual issues. Cassation courts normally annul judgments of lower courts and send the case back for re-trial, whereas the Armenian Cassation Court may also amend (change) lower courts’ decisions under certain conditions. The prohibition of *reformatio in peius* applies also to cassation proceedings; accordingly, the acquitting judgment may not be quashed and a convicting judgment may not be quashed or changed in a way that “deteriorates the condition of the accused”, save for cases where the prosecutor or the victims or their representative have lodged an appeal demanding it (Article 393 par 3). It is assumed that this provision refers to “ordinary” appeals, since under Article 359 par 2, an appeal for review to the Cassation Court can be lodged by the Prosecutor General and his or her deputies only.
59. At the same time, Article 393 par 2 provides that the Cassation Court may not change the sentencing part of the lower court’s judicial act. This provision seems to prohibit changes to the convicting judgment to the detriment of the accused and appears to contradict what is stated in Article 393 par 3. As in the case of “ordinary” appeals, it is not clear to what extent the prohibition of *reformatio in peius* applies if the decision is quashed and the case is sent back to the lower court. According to Article 386 par 4 subpar 3, cassation review is permissible if the type or the severity of the sentence imposed on the accused for the crime attributed to him/her is not prescribed by law for that crime or if the sentence imposed was wrongly calculated. According to Article 394 par 3, the Cassation Court may quash the first-instance decision and transfer the case back to the lower court. In this context, it is not clear whether the lower court is prevented from imposing a harsher sentence if the court that imposed the original judgment erred to the benefit of the accused. It is recommended to clarify these aspects.
60. Article 395 par 2 provides that the decision of the cassation court shall be sent to the person who lodged the appeal and to other participants in proceedings “within a reasonable time period after the date of rendering the decision”. To

³¹ Protocol No. 7 (of 22 November 1984) to the ECHR, ratified by the Republic of Armenia on 26 April 2002.

³² Article 20 par. 3 of the Constitution of the Republic of Armenia (adopted on 5 July 1995, with subsequent amendments).

prevent undue delays in notifying participants, the drafters might wish to consider setting a precise timeframe for sending out the cassation court decision, perhaps similar to the rules applying to decisions on appeal (see Article 384 par 2, which provides that decisions on appeal shall be sent to participants “not later than within five days of publication”).

61. As concerns extraordinary review proceedings, Article 409 par 1 subpar 7 provides that an appeal for extraordinary review may be lodged if “a law decriminalizing the act has entered into force, *provided that such law provides the possibility of review due to new circumstances*” (emphasis added). On this point, it bears recalling that the ECtHR has in recent years affirmed, in light of a consensus that had emerged over the past few decades in Europe and internationally, that “Article 7 § 1 of the Convention guarantees not only the principle of non-retrospectiveness of more stringent criminal laws but also, and implicitly, the principle of retrospectiveness of the more lenient criminal law. That principle is embodied in the rule that where there are differences between the criminal law in force at the time of the commission of the offence, and subsequent criminal laws enacted before a final judgment is rendered, the courts must apply the law whose provisions are most favourable to the defendant”.³³ While this *dictum* is distinguishable from the case of the extraordinary review proceedings – which are an instrument by which a *final* judgment can be set aside – it is nonetheless recommended that whenever a law is passed decriminalizing a certain act, an appeal for extraordinary review is *automatically* granted. The rationale for this recommendation is that no person should be held in jail for an act which is not considered to be a crime at the time of the implementation of the criminal sentence.
62. Article 409 par 1 subpar 7 provides that an appeal may be lodged if newly discovered circumstances not known to the court rendering the original judgment seem to prove the “innocence of the acquitted person [...]”. This appears to be an error – possibly due to translation – as, logically, the appeal should be allowed where new evidence suggests the *guilt* (and not the “innocence”) of the “acquitted person”.
63. Chapter 51 regulates the proceedings concerning crimes attributed to minors. The provisions are generally in line with international standards on juvenile justice. Contrary to what is set forth in Article 6 par 1 of the ECHR, in juvenile cases the rule is to hold hearings *in camera* (Article 424 par 1). However, in light of the ECtHR judgment in the case of *T. v. UK*,³⁴ and the possibility to request a public hearing, the respective provision does not raise concerns.

³³ See *Scoppola v. Italy*, ECtHR Grand Chamber Judgment of 17 September 2009 (Application No. 10249/03), paragraph 109.

³⁴ *T. v. UK*, ECtHR Grand Chamber Judgment of 16 December 1999 (Application No. 24724/94).

64. As regards proceedings to apply compulsory medical measures (Chapter 52), it is noted that such proceedings may also be conducted in respect of a person who, subsequent to the perpetration of the crime, developed a mental disorder that renders the imposition or the execution of the sentence impossible (Article 428 par 1 subpar 2). Such a person, who is probably unable due to his or her mental state to defend himself or herself, can then be convicted (Article 436 par 2 subpar 5 and Article 436 par 6). This raises concerns, and it is recommended that instead, in such cases, proceedings be suspended until the recovery of the person.

D. Final and Transitional Proceedings

65. Finally, in light of the complexity of the Draft Code and the significant number of novel procedures which it aims to introduce, it is recommended that a sufficiently long *vacatio legis* be provided for, so as to allow for adequate and efficient training of law enforcement and judicial personnel, as well as defense counsel, on the new legal provisions. From this perspective, depending on when the Draft Code is adopted in final reading, the date of entry into force of the Draft Code, currently set for 1 January 2014 (see Article 471), might have to be extended.

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REPUBLIC OF ARMENIA
CRIMINAL PROCEDURE
CODE

PART ONE: GENERAL PROVISIONS

***SECTION 1. CRIMINAL PROCEDURE LEGISLATION AND THE
CRIMINAL PROCEEDINGS***

CHAPTER 1. CRIMINAL PROCEDURE LEGISLATION

Article 1. Legislation Regulating Criminal Procedure

In the territory of the Republic of Armenia, criminal procedure is regulated by the Republic of Armenia Constitution, the international treaties of the Republic of Armenia, this Code, and other codes and laws adopted in accordance therewith.

Article 2. Aim of the Criminal Procedure Code

The aim of this Code is to define an effective procedure for conducting proceedings concerning alleged crimes, which is based on safeguarding human rights and freedoms.

Article 3. Territorial Effect of the Criminal Procedure Code

1. In the territory of the Republic of Armenia, irrespective of where the crime is committed, the Criminal Proceedings shall be conducted in accordance with the provisions of this Code, unless the international treaties of the Republic of Armenia provide otherwise.

2. The provisions of this Code shall be followed when conducting the proceedings concerning alleged crimes committed outside the borders of the Republic of Armenia on board of any air, sea, or river vessel registered in an airport or seaport of the Republic of Armenia, lawfully under the flag of the Republic of Armenia or bearing the insignia of the Republic of Armenia.

3. In cases stipulated by the international treaties of the Republic of Armenia, the provisions of this Code shall apply also in the territory of foreign states.

4. When performing certain Proving Actions upon Petition by an international Court or by a Court or criminal prosecution body of a foreign state, the criminal procedure legislation of a foreign state may be applied, if an international treaty of the Republic of Armenia so provides.

Article 4. Effect of the Criminal Procedure Code in Time

1. During the Criminal Proceedings, such provision of this Code, which was in effect at the time of performing the respective procedural action or taking the respective decision, shall apply.

2. Evidence admissibility shall be determined on the basis of the law that was in effect at the time of obtaining such Evidence.

3. The provisions of this Code shall not have retrospective effect, unless otherwise provided by law.

Article 5. Peculiarities of the Application of the Criminal Procedure Code Based on the Scope of Persons

The international treaties of the Republic of Armenia, this Code, and other laws adopted in accordance with them shall define the peculiarities of the application of this Code in respect of persons enjoying diplomatic privileges and immunity under the international treaties of the Republic of Armenia, as well as other persons exempted of criminal authority in the territory of the Republic of Armenia in accordance with the international treaties of the Republic of Armenia or this Code.

Article 6. Definitions of Key Terms Used in This Code

As used in this Code, the terms below shall have the following meaning:

1) Criminal Proceedings: a procedure conducted by state bodies and officials defined by this Code within the limits of their authority after becoming duly informed of an alleged crime;

2) Criminal Case File: the numbered totality of documents and other materials duly collected and received during the Criminal Proceedings;

3) Pre-Trial Proceedings: a procedure conducted by the Public Participants in the Proceedings within the limits of their authority;

4) Preliminary Investigation: activities carried out by an Investigator within the

limits of his authority in relation to the fact of an alleged crime;

5) Inquiry: activities carried out by the Inquiry Body during and in support of the Preliminary Investigation, which include the performance of operative-intelligence measures and undercover investigative actions;

6) Court Proceedings: a procedure conducted by a Court within the limits of its authority;

7) Court Examination: activities performed in connection with the examination of the Accusation in a first instance Court or in connection with checking, in a higher-instance Court, the lawfulness of a conclusive (եզրափակիչ) Judicial Act rendered as a result of such examination of the Accusation in a first instance Court;

8) Body Conducting the Criminal Proceedings: a body or official that has the power to adopt Procedural Acts predetermining the course of the specific Criminal Proceedings;

9) Person Engaged in the Proceedings: a Judge, a Prosecutor, an Investigator, the Head of an Investigative Body, the Head of an Inquiry Body, an Inquiry Officer, an arrested person, an Accused, his Lawful Representative, a Defender, a Victim, his Lawful Representative and his Authorized Representative, a Property Respondent, his Lawful Representative and his Authorized Representative, a witness, his Lawful Representative and his attorney, an expert, a translator, a procedure observer, and a Court session secretary;

10) Court: a state body exercising judicial authority during the Criminal Proceedings;

11) Judge: a state official exercising judicial authority during the Criminal Proceedings;

12) Public Participant in the Proceedings: a Prosecutor, an Investigator, the Head of an Investigative Body, the Head of an Inquiry Body, and an Inquiry Officer;

13) Private Participant in the Proceedings: the accused, his Lawful Representative, a Defender, a Victim, a Property Respondent, and the Lawful Representative and Authorized Representative of a Victim or of a Property Respondent;

14) Person Supporting the Proceedings: a witness, his Lawful Representative and his attorney, an expert, a translator, a procedure observer, and a Court session secretary;

15) Parties: participants representing the conflicting interests in Court Proceedings;

16) Accusation Party: the Prosecutor, Investigator, Victim and his Lawful

Representative and Authorized Representative, which participate in the Court Proceedings;

17) Defense Party: the accused and his Lawful Representative, the Defender, the Property Respondent and his Lawful Representative and his Authorized Representative, which participate in the Court Proceedings;

18) Prosecutor: a state official who exercises the powers vested in him by the Constitution of the Republic of Armenia on behalf of the state during the Criminal Proceedings;

19) Investigator: a state official who conducts the Preliminary Investigation during the Criminal Proceedings within the limits of his authority;

20) Head of an Investigative Body: the head or deputy head of an investigative service, general department, department, division, or subdivision, who organized and ensures the Preliminary Investigation process within the limits of his authority;

21) Inquiry Body: the head (Head of an Inquiry Body) and staff (Inquiry Officers) of a unit that operates within the system of a state body designated by the Republic of Armenia Law on Operative-Intelligence Activities and carries out operative-intelligence functions, provided that such head and staff are authorized, based on an instruction of an Investigator, to carry out operative-intelligence measures and undercover investigative actions within the framework of the Preliminary Investigation;

22) An Accused: a person in respect of whom criminal prosecution has been initiated and, at the same time, in respect of whom neither a decision on terminating the criminal prosecution nor a convicting or acquitting judgment has entered into legal force;

23) An Acquitted Accused: an Accused in respect of whom there is an acquitting verdict that has not entered into legal force;

24) A Convicted Accused: an Accused in respect of whom there is a conviction verdict that has not entered in to legal force;

25) Defender: an attorney who has undertaken and is carrying out the defense of an arrested person or of an Accused during the Criminal Proceedings;

26) Victim: a natural person or a legal entity about which there are sufficient grounds to presume that he or it has suffered damage by of an alleged crime or could have suffered damage had the alleged crime been completed;

27) Property Respondent: a natural person or a legal entity that may bear property liability in the cases and procedure provided by law for damage inflicted by an alleged crime;

28) Public Accuser: the Prosecutor who defends the Accusation on behalf of the

state in a first instance Court in proceedings conducted through a public accusation procedure;

29) Private Accuser: a Victim who presents the Accusation on his behalf in a first instance Court in proceedings conducted through a private accusation procedure;

30) Lawful Representative: a parent, adoptive parent, guardian, or trustee of an Accused, a Victim, or a witness who is underage or incapable, or an employee of a guardianship and trusteeship authority—within the limits of his authority, or the head of a legal entity that is a Victim or a Property Respondent;

31) Authorized Representative: an attorney whom a Victim or a Property Respondent has duly authorized to represent his legitimate interests during the proceedings, or a duly authorized employee of a legal entity that is a Victim or a Property Respondent;

32) Action of Proceedings: an action performed, inaction demonstrated, or a Procedural Act rendered during the Criminal Proceedings by a Court or a Public Participant in the Proceedings;

33) Procedural Act: a Judicial Act or a decision rendered by a Public Participant in the Proceedings;

34) Judicial Act: a decision or judgment rendered by a Court;

35) Conclusive Procedural Act: a Procedural Act that concludes the specific Proceedings, including a Conclusive Judicial Act;

36) Conclusive Judicial Act: a Judicial Act that concludes the proceedings in the specific Court;

37) Evidence: data about a fact, which is received in accordance with the procedure provided by law, and based on which an Investigator, a Prosecutor, or a Court determine the existence or absence of circumstances subject to proving, as well as other circumstances significant to the proceedings;

38) Initiation of Criminal Prosecution: the act of a Prosecutor rendering a decision on engaging a person as the Accused, or the act of an alleged Victim filing a criminal claim with a Court;

39) Accusation: a hypothesis about a specific person having committed the alleged crime, which has factual and legal substantiation;

40) Rehabilitation: restitution performed in accordance with the legislation of the Republic of Armenia on behalf of the Republic of Armenia for the benefit of the Acquitted;

41) Arrest: limitation of the person's right to liberty enshrined in Article 16 of the Constitution of the Republic of Armenia, which is done without a Court decision;

42) Proving Action: an Action of Proceedings prescribed by this Code, which is performed by an Investigator, a Court, an Inquiry Body (based on an Investigator's instruction), or an expert (based on an Investigator's or Court's instruction) with the aim of obtaining Evidence as a result of performing such an Action;

43) Protocol: a document prepared by a Public Participant in the Proceedings or by a Court session secretary, which attests to the performance of certain actions or to other facts;

44) Petition: the request of a Participant in the Proceedings or another person addressed to a Body Conducting the Criminal Proceedings;

45) Recusal: a written Petition by a Participant in the Proceedings on dismissing a Judge, a Public Participant in the Proceedings, an expert, a translator, a procedure observer, or a Court session secretary from participation in the proceedings;

46) Complaint: written disagreement with an Action of Proceedings (with a handwritten signature in case it is paper-based or with an electronic signature in case it is electronic);

47) Instruction: a written directive by a Prosecutor to an Investigator or a Head of an Investigative Body, or by a Head of an Investigative Body to an Investigator, or by an Investigator to an Inquiry Body, to perform certain actions, to render decisions, or to refrain from performing certain actions or rendering decisions;

48) Objection: written disagreement (on paper and with a handwritten signature) concerning the Instructions or Actions of Proceedings of a Public Participant in the Proceedings, which is presented to a competent person of another Public Participant in the Proceedings;

49) Testimony: duly recorded data that is communicated orally or in writing during the questioning, confrontation, or spot checking of Testimonies of an Accused, a witness, or a Victim, or during the questioning of an expert;

50) Explanation: an oral or written assertion made by a Participant in the Proceedings or another person for presenting or substantiating his position;

51) Relatives: persons that have a kinship and have common ancestors up to a great-grandparent. For purposes of this Code, first-degree kinship with a person includes such person's children, parents, and siblings. Second-degree kinship includes persons that have first-degree kinship with a person, as well as persons that have first-degree kinship with such persons. Third-degree kinship includes persons that have

second-degree kinship with a person, as well as persons that have first-degree kinship with such persons;

52) Close Relative: a parent, child, adoptive parent, adopted child, sibling and step-sibling (same-parent sibling), grandparent, grandchild, spouse's parent, or child's spouse;

53) House: a building or structure that is permanently or temporarily used by a certain person or persons for residence, including own or rented Houses, a garden house, a hotel room, a ship cabin, a train accommodation cabin, private space directly adjacent to them, and other components thereof used for rest, storage of property, and meeting other needs of a certain person or persons. "House" shall also include private vehicles, art studios, offices, and cars; and

54) Incident Scene: a limited area about which a crime report or sufficient Evidence persuasively substantiate that a crime has been committed in such area, and in which there are traces and consequences of a crime.

CHAPTER 2. FOUNDATIONS OF CONDUCTING THE CRIMINAL PROCEEDINGS

Article 7. The Criminal Proceedings and the Bodies Conducting Them

1. Criminal Proceedings include the performance of Actions of Proceedings and the rendering of Procedural Acts by state bodies and officials stipulated by this Code within the limits of their authority after they become informed of a prima-facie crime.

2. The following are the Bodies Conducting the Criminal Proceedings:

1) An Investigator: from the time the Proceedings are initiated till the time an accusatory conclusion, an accusatory act, or a decision to discontinue the Criminal Proceedings is delivered to the supervising Prosecutor;

2) The Supervising Prosecutor: from the time of receiving from the Investigator the accusatory conclusion, the accusatory act, or the decision to discontinue the Criminal Proceedings till the time the accusatory conclusion or accusatory act is delivered to the Court, the Investigator's decision to discontinue the Criminal Proceedings is approved, or the Criminal Case File is returned to the Preliminary Investigation body;

3) The Court: from the time of receiving the accusatory conclusion or accusatory act from the Prosecutor till the end of the Criminal Proceedings.

Article 8. Materials of the Criminal Proceedings and the Criminal Case File

1. The process and results of all Actions of Proceedings performed during the Criminal Proceedings, and any Procedural Act that is rendered shall be documented.

2. Documentation shall be performed using a computer or, if it is impossible, by documenting in a handwritten Protocol, which shall be compiled during or immediately after completion of the Action of Proceedings. During Court Proceedings, documentation may also be performed by means of recording audio.

3. Every document annexed to the materials of the proceedings shall be immediately numbered by pages, as per the chronology of annexing them.

4. At the completion of the Preliminary Investigation, the materials of the proceedings shall be compiled in the form of a Criminal Case File consisting of one or several volumes, each one of which shall contain a list of materials present in such volume.

5. Objects and documents, which, due to their nature or large volume, cannot be kept in the Criminal Case File, shall be kept separately from the Case File, but constitute an integral part thereof. The list of objects and documents kept separately from the Criminal Case File shall be annexed to the Criminal Case File.

6. In case of loss of the materials of the proceedings or of the Criminal Case File, the Prosecutor or the Court, respectively, shall render a decision on recovering them and shall take measures to secure the due course of the proceedings. The materials of the proceedings and the Criminal Case File shall be recovered by means of copying existing documents or re-performing the necessary Actions of Proceedings.

Article 9. Attributes and Binding Nature of a Procedural Act

1. Every Procedural Act rendered during the Criminal Proceedings must be lawful and grounded.

2. A Procedural Act shall be lawful if it is rendered in compliance with such requirements of the Republic of Armenia Constitution, international treaties of the Republic of Armenia, this Code, and other laws of the Republic of Armenia, which are applicable to the conduct of the proceedings in question.

3. A Procedural Act shall be grounded if it is persuasive for its addressees to an extent that is proportionate with its nature and impact.

4. A check carried out within a proper legal procedure is the only way to determine whether a Procedural Act is lawful and grounded.

5. Every Procedural Act shall contain information about when and where it was prepared, the name and surname and position of the preparing person, and the sequence number of the proceedings. A Procedural Act shall be confirmed by a competent person's signature and relevant seal.

6. In the cases provided by this Code, certain Procedural Acts may be subject to additional requirements.

7. Procedural Acts rendered by a Court or a Public Participant in the Proceedings within the limits of its authority shall be binding for execution by all state and local government bodies, officials, natural persons, legal entities, and other organizations.

Article 10. Merger and Separation of the Criminal Proceedings

1. An Investigator or a Court may merge the following into one set of proceedings:

1) Proceedings related to the commission of more than one alleged crimes by the same person;

2) Proceedings related to the commission of the same alleged crime or more than one alleged crimes by more than one persons;

3) Proceedings related to more than one interconnected alleged crimes, in view of the interest of justice.

2. Proceedings conducted in relation to the commission of one or more alleged crimes by more than one person may be partially separated, if it is required by the need to protect the interest of justice and cannot negatively affect the fairness of the proceedings.

3. A decision shall be rendered on merging or separating the Criminal Proceedings, which shall contain the cause of initiating the Criminal Proceedings, the factual circumstances of the alleged crime, data about the person (persons) accused of committing the criminally-prosecuted act, if known, and information about the body or official undertaking the merged or separated proceedings.

4. Originals or copies of all the materials of the proceedings, as well as a list of all such materials shall be annexed to the decision.

5. A copy of the decision on merging or separating the Criminal Proceedings shall be sent to the Private Participant in the Proceedings; during the Pre-Trial Proceedings, a copy of such decision shall immediately be sent also to the supervising Prosecutor.

Article 11. Ways of Performing Criminal Prosecution

1. Criminal prosecution in the framework of the Criminal Proceedings may be performed publicly or privately depending on the nature and gravity of the crime.

2. Criminal prosecution in proceedings related to crimes prescribed by Paragraph 1 of Article 446 of this Code shall be performed privately. Criminal prosecution in proceedings related to any other crime shall be performed publicly.

3. If some of the acts attributed to the same person are subject to public criminal prosecution and others to private criminal prosecution, then public criminal prosecution shall be performed.

Article 12. Circumstances Precluding Criminal Prosecution

1. Criminal prosecution may not be initiated, and any initiated criminal prosecution shall be terminated, if:

1) It has been proven that the Accused has not committed the act attributed to him;

2) The act committed by the Accused is deemed lawful under the criminal law;

3) There is a judgment or other Judicial Act, which has entered into legal force in relation to the act attributed to the person and confirms the impossibility of criminal prosecution;

4) There is a decision of the Prosecutor, which has not been repealed, on not initiating criminal prosecution or on terminating criminal prosecution in respect of the act attributed to the person;

5) The statutory periods of limitation for holding a person criminally liable have passed;

6) At the time of committing the act, the person had not reached the age prescribed by law for being held criminally liable;

7) The person has died, with the exception of cases in which the Criminal Proceedings need to be continued for reinstating the rights of the deceased or for resuming the proceedings in respect of other persons based on new circumstances;

8) The person has voluntarily refused to complete the crime, unless the act factually committed by him contains features of another crime;

9) The person is subject to exemption from criminal liability by virtue of the provisions of the General or Special Parts of the Criminal Code of the Republic of Armenia;

10) An act of general amnesty adopted is applicable to the person;

11) The act attributed to the person has been decriminalized;

12) The Accused or the person subject to engagement as the Accused enjoys immunity from criminal prosecution, and the competent body has not lifted such immunity as a result of a proper legal procedure;

13) The maximum time period for criminal prosecution defined by this Code has ended, and the Prosecutor has not sent the Criminal Case File to Court during such time period;

14) Any of the grounds prescribed by Paragraphs 2 or 4 of Article 13 of this Code is present; or

15) The Private Accuser has become legally disinterested in criminal prosecution.

2. If the criminal prosecution is terminated on the basis of the grounds stipulated by sub-paragraphs 1 to 4 of Paragraph 1 of this Article, the Accused shall become entitled to Rehabilitation.

3. Sub-paragraph 7 of Paragraph 1 of this Article shall not apply to cases of recognizing a person as deceased in the procedure stipulated by the Civil Procedure Code.

4. Termination of criminal prosecution based on the grounds specified in sub-paragraphs 5, 10, and 11 of Paragraph 1 of this Article shall not be permitted, if the person objects to it. In such a case, the Criminal Proceedings shall continue under the regular procedure.

Article 13. Grounds of Discontinuing the Criminal Proceedings

The Criminal Proceedings shall be discontinued if:

1) The absence of any crime proscribed by the Criminal Code has been confirmed;

2) The proceedings were conducted on the basis of a report received from a source not provided by this Code;

3) The criminal prosecution of the Accused has been terminated, and there is no possibility of continuing the proceedings; or

4) Public criminal prosecution was carried out in the proceedings, whereas this Code permits only private criminal prosecution in such proceedings.

Article 14. End of the Criminal Proceedings

The Criminal Proceedings shall end:

1) When the decision to discontinue the Criminal Proceedings has entered into force;

2) A Conclusive Judicial Act has entered into force, provided that special measures for delivering it for execution are not required; or

3) A Conclusive Judicial Act has been delivered for execution.

CHAPTER 3. PRINCIPLES OF THE CRIMINAL PROCEEDINGS

Article 15. Publicity of the Proceedings

1. The conduct of the proceedings is a public activity during and as a result of which the balanced protection of public and private interests shall be secured.

2. Justice, criminal prosecution, prosecutorial supervision, and other public activities shall be carried out exclusively in the interests of the law by competent bodies created on the basis of law.

3. When administering justice or securing other judicial safeguards, a Judge must be and appear impartial.

4. Natural persons and legal entities have the right to have the participation stipulated by this Code in the protection of public interests in the Criminal Proceedings.

5. In the cases and procedure stipulated this Code, natural persons and legal entities, including the Victim, must facilitate the protection of public interests in the Criminal Proceedings.

Article 16. Equality of All before the Law

1. Everyone is equal before the law and shall, equally and without discrimination, be protected by law.

2. The procedure stipulated by this Code is common for all Persons Engaged in the Proceedings irrespective of sex, race, skin color, ethnic or social origin, genetic features, language, religion, worldview, political or other views, ethnic minority status, property status, birth, disability, or other personal or social circumstances.

3. The authority of the bodies conducting the Criminal Proceedings and the procedure by which they conduct the proceedings may not be arbitrarily changed for a particular case or person, or for a certain situation, or for a certain time period.

4. Legal positions expressed in the Judicial Acts of the European Court of Human Rights, the Constitutional Court of the Republic of Armenia, and the Cassation Court of the Republic of Armenia shall be binding for the Body Conducting the Criminal Proceedings.

Article 17. The Presumption of Innocence

1. A person accused of a crime shall be deemed innocent so long as his guilt has not been proven in accordance with the procedure stipulated by this Code by a Court judgment that has entered into legal force.

2. Unproven guilt is tantamount to proven innocence.

3. The accused is not obliged to prove his innocence or to render any support to the Body Conducting the Criminal Proceedings. The duty to prove the innocence of the Accused also may not be placed on his Defender, Lawful Representative, Property Respondent, or representative. In case of public criminal prosecution, the Prosecutor and, in Pre-Trial Proceedings, also the Investigator shall bear the duty of proving the Accusation and refuting the arguments brought to defend the Accused. In case of private criminal prosecution, the Victim and his representative shall bear such duty.

4. Reasonable doubt related to the Accusation being proven, which has not been dispelled in the framework of a due process of law in accordance with the provisions of this Code, shall be construed to the benefit of the Accused.

Article 18. Liberty and Security of Person

1. During the proceedings, coercive measures may be applied in relation to a person only on the basis of the grounds and procedure defined by this Code. The

deprivation of liberty of a person during the proceedings shall not pursue the aim of punishment.

2. The Court, the Prosecutor, the Investigator, and the Inquiry Body are obliged, within the limits of their authority, immediately to release anyone who is groundlessly or unlawfully deprived of liberty.

3. The detention of a person, the prolongation of the detention term, and the compulsory placement in a medical institution is permitted only on the basis of a Court decision in case when the person's proper behavior cannot be safeguarded through other coercive measures.

4. After the maximum period stipulated by this Code for a particular type of Arrest has passed, the arrested person shall be immediately released, unless there is a decision on detaining him.

5. Everyone shall be immediately duly notified of the grounds of his deprivation of liberty and, if he is accused of a crime, also its factual circumstances and legal assessment.

6. During the proceedings, no one shall be subjected to torture or unlawful physical or mental violence, including by use of medication, hunger, exhaustion, hypnosis, deprivation of health care, or other cruel treatment. It shall be prohibited to obtain information from a person by means of violence, threats, deceit, infringements of his rights, and other unlawful actions.

7. The performance of actions endangering human life or health or inflicting physical or mental suffering upon him shall be prohibited during the proceedings.

Article 19. Provision of Legal Aid

1. During the proceedings, the possibility of receiving legal aid shall be secured for everyone. For an Accused, legal aid shall be secured through a Defender.

2. A Victim and his Lawful Representative, the Lawful Representative of an Accused, a Property Respondent and his Lawful Representative, as well as a Witness may, during the proceedings, receive legal aid from an attorney invited by them or, in cases provided by law, also from an attorney provided with state funding.

3. The Body Conducting the Criminal Proceedings may not prohibit the presence of the attorney of the persons specified in Paragraph 2 of this Article in the Actions of Proceedings performed with the participation of such person.

Article 20. Securing the Defense of the Accused

1. The Accused may defend himself from the Accusation in person or through a Defender or Lawful Representative. The participation of the Defender or Lawful Representative of the Accused in the proceedings shall not limit the rights of the Accused.

2. The Body Conducting the Criminal Proceedings shall explain to the Accused his rights and safeguard a real possibility for his defense from the Accusation using all means not prohibited by law.

3. In the cases deemed mandatory under this Code, the Body Conducting the Criminal Proceedings shall secure the participation of a Defender in the proceedings.

4. The Body Conducting the Criminal Proceedings shall, in the cases stipulated by law, engage the Lawful Representative of the Accused in the proceedings.

Article 21. Equality of the Parties and Adversarial Proceedings

1. In Court, the proceedings shall be conducted on the basis of the equality of the Parties and adversarial proceedings. Deviation from the principles of the equality of the Parties and adversarial proceedings shall be permitted only in proceedings related to judicial safeguards of the performance of Proving Actions, agreement and cooperation proceedings, cassation proceedings, and extraordinary review proceedings.

2. The Accusation and the defense shall be separated. They shall be carried out by different individuals. The Court shall safeguard the Parties' right to participate in the Court session.

3. The Court shall, maintaining its impartiality, create the conditions necessary for the Accusation Party and the Defense Party for the presentation and comprehensive examination of all the Evidence. Based on a Petition by a party, the Court shall support such party in obtaining the necessary Evidence in accordance with the procedure stipulated by this Code.

4. In Court, the Parties shall have equal possibilities for presenting and defending their position. A Judicial Act may be based only on such Evidence during the examination of which equal conditions were safeguarded for each of the Parties.

5. The Court is bound by the factual circumstances underlying the Accusation. However, the Court is not bound by the legal assessment of the act attributed to the Accused. The Parties' positions concerning the application or construal of the law shall not be binding for the Court.

Article 22. Proper Proving

1. Any circumstance that is of significance to the Criminal Proceedings shall be confirmed by a sufficient combination of proper Evidence.
2. A Conclusive Procedural Act shall be based on the free and bona-fide assessment of the examined Evidence.
3. Every factual circumstance constituting a part of the Accusation shall be substantiated with such a volume of Evidence that will preclude any reasonable suspicion regarding such circumstance being proven. The absence of necessary and possible Evidence shall be taken into account when rendering a judgment.
4. The Body Conducting the Criminal Proceedings shall thoroughly check the arguments properly filed and documented in defense of the Accused.
5. An inference regarding the person's guilt for a crime may not be based on assumptions: it shall be confirmed by the interconnected totality of relevant, permissible, and credible Evidence.
6. Confession Testimony may not serve as a basis for convicting a person unless it is substantiated by the sufficient totality of Evidence examined in the framework of a proper legal procedure.
7. The conviction of the Accused may not be solely or predominantly based on the Testimony of such a person whom the Accused in question or his Defender or representative had no possibility of cross-questioning.

Article 23. Safeguarding Judicial Protection

1. No one may be deprived of the right to have his case examined in such a Court by such a Judge, which by law have jurisdiction or authority over the case.
2. Everyone has the right to Court Examination for determining whether the Accusation filed against him is justified?substantiated?.
3. Everyone upon whom damage has been inflicted by an alleged crime shall, in the cases and procedure stipulated by this Code, have the right to file a demand with a Court on imposing criminal responsibility upon the person who committed the crime and compensating the damage inflicted upon him by such crime.
4. Actions of Proceedings by the Public Participants in the Proceedings, which are related to the rights and freedoms of the person, shall be subject to checking by a Court in the cases and procedure stipulated by this Code.

Article 24. Reasonable Period of Proceedings

1. The Preliminary Investigation and the Court Examination must end in a reasonable period.
2. The Accused shall have the right to appear before a Court within a reasonable period.
3. The term of holding a person in custody shall be limited to the shortest time period necessary.
4. In determining the sequence in which to examine Criminal Cases pending in its proceedings, the Judge shall give preference to the proceedings in which:
 - 1) The Accused is in detention;
 - 2) The Accused has been in custody longer than the Accused engaged in other proceedings.
5. In the absence of the differentiation features stipulated by Paragraph 4 of this Article, the Judge shall determine the sequence of examining Criminal Case Files on the basis of the timing of their receipt by the Court.

Article 25. Impermissibility of Being Tried Twice

1. No one shall be tried or punished under the authority of the Republic of Armenia twice for an act for which he has already been acquitted or convicted by a judgment that has entered into legal force.
2. The existence of a decision, which has entered into legal force, of the criminal prosecution body on not initiating criminal prosecution or on terminating criminal prosecution shall preclude the resumption of criminal prosecution.
3. The review of an act concluding the proceedings on the basis of a demand to improve the person's condition does not amount to being tried twice.
4. The following shall not amount to being tried twice on the basis of a demand to worsen the person's condition:
 - 1) The review or termination of a Conclusive Judicial Act that has not entered into legal force, or the review or termination of a decision, which has not entered into legal force, of the criminal prosecution body on not initiating criminal prosecution or on terminating criminal prosecution; or
 - 2) The review, on the basis of a fundamental violation of rights or a new circumstance, within the time period prescribed by this Code, of a Conclusive Judicial Act that has entered into legal force, or of a decision, which has entered into legal force,

of the criminal prosecution body on not initiating criminal prosecution or on terminating criminal prosecution.

5. If it becomes clear during the conviction of a person that an administrative or disciplinary sanction has been imposed on him for the same act, then it shall be eliminated in case of sentencing him and shall be taken into consideration during such sentencing.

Article 26. Secrecy of Private and Family Life

1. Competent bodies may collect, store, and use information about a person without his consent only in the cases and procedure stipulated by law, provided that it is necessary for uncovering circumstances that are of significance to the proceedings.

2. A person to whom the Body Conducting the Criminal Proceedings offers communicating such information or providing such materials, which subsequently may be used or construed to the detriment of such person or his or her spouse or Close Relative, has the right to refuse to communicate such information or to provide such materials.

3. During the proceedings, surveillance of a person's telephone communications, correspondence, mail, telegraph, and other communications may be performed only by a Court decision in the cases and procedure stipulated by law.

4. During the proceedings, information that concerns the person and contains banking, notary, insurance, and securities market official secrets may be collected only by a Court decision.

5. With the exception of an Incident Scene inspection, Proving Actions and other Actions of Proceedings may be performed in a person's House only by a Court decision or with such person's consent. In any event, a search or confiscation, or an inspection that is not deemed an inspection of an Incident Scene, may be performed in a House only by a Court decision.

6. Seizure of a person's property during the proceedings shall be subject to a mandatory judicial check.

Article 27. The Language of Proceedings

1. Literary Armenian is the language of proceedings. During the Criminal Proceedings, everyone, with the exception of the Court and the Public Participants in the Proceedings, shall have the right to act in the language that he masters.

2. By a decision of the Body Conducting the Criminal Proceedings, a person not mastering the language of the proceedings shall be given the possibility, at no cost, to exercise all of his rights stipulated by this Code with the help of a translator.

3. Copies of the documents subject to delivery under this Code shall be provided to the respective person not mastering the language of the proceedings in a language that he masters.

4. A document presented to the Body Conducting the Criminal Proceedings in another language shall be annexed to the materials of the proceedings together with the Armenian translation endorsed by a translator.

Article 28. Publicity of Court Proceedings

1. Proceedings in Court shall be open to the public, with the exception of cases stipulated by this Code.

2. Anyone who has turned 16 or, with the Court's permission, a person who has not reached 16, has the right to be present in a public session of the Court.

3. In the cases stipulated by this Code, the Court may decide, on its own initiative or by Petition of a party, to hold the Court session or a part thereof in camera, provided that it will not result in an unjustified limitation of the publicity principle.

4. Acts rendered by the Court during the Court Proceedings shall be announced publicly. Due to the grounds for holding a Court session in camera, the Court may decide not to announce publicly certain parts of the Judicial Act. In any event, the introductory and conclusion parts of such Judicial Acts shall be published.

Article 29. Prohibition of Illicit Conduct

1. Private Participants in the Proceedings and Persons Supporting the Proceedings shall exercise their rights and carry out their obligations in good faith.

2. Abuse of rights, which inflicts damage upon other persons or the interests of justice, shall be prohibited.

3. In the cases stipulated by this Code, a procedural sanction commensurate to the conduct may be imposed on a person who has abused his rights or maliciously failed to carry out his obligations, if the failure to impose such a sanction may undermine the due course of the proceedings.

4. If the Accused maliciously fails to carry out his obligations, a restraint measure may be imposed on him, or a restraint measure applied earlier may be replaced with a more stringent one.

*SECTION 2. THE BODIES AND PERSONS ENGAGED IN THE
CRIMINAL PROCEEDINGS*

CHAPTER 4. THE COURT

Article 30. Courts Administering Criminal Justice

In the Republic of Armenia, criminal justice shall be administered only by the first instance Courts, the criminal appellate Court, and the cassation Court.

Article 31. Composition of the Court

1. In the first instance Court, the proceedings, including the Court Examination and the Judicial Safeguards proceedings, shall be administered by a single Judge.

2. Appellate review and extraordinary review in the appellate Court shall be carried out collectively by a bench of three Judges, and special review shall be carried out by a single Judge.

3. The cassation Court shall:

1) Make a determination on returning a appeal for review or leaving it without examination through a single Judge—a Judge of the criminal chamber of the cassation Court;

2) Make a determination on admitting a appeal for review or refusing to admit it collectively—by a bench of three Judges of the criminal chamber of the cassation Court; and

3) Examine an admitted cassation appeal collectively—by a bench of at least five Judges.

4. All Judges conducting proceedings through a collective bench shall have equal authority in respect of any matter subject to determination by the Court.

Article 32. Reserve Judge

1. If the examination of the Accusation in Court requires an exceptionally long period of time, then the chairman of such Court shall, based on a decision of the Court, appoint a reserve Judge from amongst the Judges of such Court, who shall be obliged to be present in the courtroom during the Court Examination. The Court chairman may decide not to appoint a reserve Judge, if he finds no need for doing so in the proceedings in question.

2. Only one reserve Judge may be appointed for the same set of proceedings.

3. In case of the Recusal or Self-Recusal of the Judge examining the Accusation, or termination of his Judge powers, or the existence of other grounds precluding his participation in the proceedings, the reserve Judge shall replace him and continue the proceedings.

Article 33. Powers of the Court

1. In accordance with the procedure prescribed by this Code, the Court may:

1) Conduct proceedings in Criminal Case Files in the first instance, appellate, and cassation procedure;

2) Conduct Judicial Safeguards proceedings;

3) Impose procedural sanctions while conducting proceedings;

4) Impose restraint measures, security measures, and property seizure while conducting proceedings in a Criminal Case File; and

5) Deliver a Judicial Act for execution.

2. The Court may exercise other powers in cases stipulated by law.

Article 34. The Presiding Judge and His Powers

1. A Judge who is the single Judge examining a case shall preside over the Court session.

2. If the proceedings are administered through a collective bench in the appellate or cassation Courts, the session shall be presided by the Court chairman or chamber chairman or a Judge so authorized in the procedure stipulated by law.

3. The presiding Judge shall prepare and be in charge of the Court session, and take measures to secure the fair conduct of the proceedings and compliance with other requirements of this Code, as well as the proper conduct of persons present in the Court session.

4. The presiding Judge shall present all issues related to the proceedings to all the Judges for resolution. A decision shall be taken by simple majority of the votes of the Judges. In case of a tie of votes, the decision that is more favorable for the Accused shall be deemed taken.

CHAPTER 5. PUBLIC PARTICIPANTS IN THE PROCEEDINGS

Article 35. Autonomy and Responsibility of the Public Participants in the Proceedings

1. In the exercise of his powers during the Criminal Proceedings, a Public Participant in the Proceedings shall act on his own, relying on the law and, in cases stipulated by law, also the Instructions of the competent person. A Public Participant in the Proceedings shall be responsible for his Actions of Proceedings based on inner conviction.

2. A Prosecutor shall be responsible for the lawfulness of initiating and terminating criminal prosecution, the lawfulness of Inquiry and Preliminary Investigation, and the lawfulness of the application of coercive measures.

3. The Head of an Investigative Body shall be responsible for the effective organization of the Preliminary Investigation.

4. An Investigator shall be responsible for the effectiveness and due course of the Preliminary Investigation, as well as the performance of investigative actions in the procedure and time period prescribed by law.

5. An Inquiry Body shall be responsible for performing undercover investigative actions and operative-intelligence measures assigned to him in the procedure and time period prescribed by law.

Article 36. Relationship between Public Participants in the Proceedings

1. An Instruction by a higher-ranking Prosecutor shall be binding for a supervising Prosecutor, unless the supervising Prosecutor believes such Instruction to be unlawful or groundless. In such a case, the supervising Prosecutor shall, without executing the Instruction by the higher-ranking Prosecutor, file an Objection with the superior of the Prosecutor who issued such Instruction.

2. An Instruction issued by a supervising Prosecutor in the framework of supervision over the lawfulness of the initiation of criminal prosecution, the lawfulness of the Inquiry, and the lawfulness of the Preliminary Investigation, or in the framework of supervision over the lawfulness of the application of coercive measures shall be binding for a Head of an Investigative Body, an Investigator, and a Head of the Inquiry Body, but the latter three shall have the right to file a written Objection with a higher-ranking Prosecutor concerning such Instruction.

3. An Instruction issued by the Head of an Investigative Body in the framework of securing the effective organization of the Preliminary Investigation shall be binding for an Investigator, but the latter shall have the right to file a written Objection with the supervising Prosecutor concerning such Instruction, which shall not suspend the execution of such Instruction.

4. An Instruction issued by an Investigator for the purpose of securing the effectiveness and due course of a Preliminary Investigation shall be binding for the Inquiry Body, but the Head of the Inquiry Body shall have the right to file a written Objection with the supervising Prosecutor concerning such Instruction, which shall not suspend the execution of such Instruction.

Article 37. Powers of the Higher-Ranking Prosecutor in the Pre-Trial Proceedings

During the Pre-Trial Proceedings, a higher-ranking Prosecutor may:

- 1) Assign the supervision of the lawfulness of Inquiry and Preliminary Investigation to a lower-ranking Prosecutor or carry out such supervision himself, exercising the powers of the supervising Prosecutor in Pre-Trial Proceedings under this Code;
- 2) If necessary, assign the supervision of the lawfulness of Inquiry and Preliminary Investigation to several Prosecutors and perform work division between them;
- 3) By his decision, remove the supervising Prosecutor from the proceedings and assign the supervision of the lawfulness of Inquiry and Preliminary Investigation to another Prosecutor or carry out such supervision himself, exercising the powers of the supervising Prosecutor in Pre-Trial Proceedings under this Code;
- 4) In the cases provided by this Code, render a decision on replacing the supervising Prosecutor;
- 5) Render a decision in relation to a Recusal expressed in respect of a supervising Prosecutor, as well as his Self-Recusal;
- 6) Instruct the Head of an Investigative Body to have the proceedings conducted by an investigative team, if such Instruction lies beyond the scope of powers of the supervising Prosecutor;
- 7) Render a decision assigning continuation of the proceedings to another body of Preliminary Investigation in order to secure a comprehensive and impartial Preliminary Investigation;

8) Issue Instructions to the supervising Prosecutor for the purpose of securing the lawfulness of the proceedings;

9) Terminate unlawful or groundless decisions and Instructions of the supervising Prosecutor;

10) Render a decision on the Objections of the supervising Prosecution Body, the Investigator, or the Head of an Investigative Body concerning the supervising Prosecutor's Instructions or Actions of Proceedings, as well as on the supervising Prosecutor's Objections concerning a higher-ranking Prosecutor's Instructions or Actions of Proceedings;

11) Render a decision on complaints lodged by a Private Participant in the Proceedings or other persons against the supervising Prosecutor's Actions of Proceedings; and

12) During the Pre-Trial Proceedings, exercise other powers reserved for his authority under this Code.

Article 38. Powers of the Supervising Prosecutor during the Pre-Trial Proceedings

During the Pre-Trial Proceedings, the supervising Prosecutor may:

1) Check compliance with the requirements of the law on receiving and documenting reports of alleged instances of crime;

2) If the prima-facie features of a crime are present, prepare a Protocol on initiating Criminal Proceedings and, according to the investigative prerogative rules prescribed by this Code, issue an immediate Instruction to the Head of an Investigative Body on initiating a Preliminary Investigation;

3) For the purpose of checking, demand from the Inquiry Body the documents stipulated by law concerning operative-intelligence measures and undercover investigative actions performed during the Criminal Proceedings, or check such documents at their whereabouts;

4) For the purpose of checking, demand from the Investigator information about the course of the Preliminary Investigation and the materials of the Criminal Proceedings, or check them at their whereabouts;

5) Render an appropriate decision on the basis of the Investigator's Petition on engaging a person as the Accused, suspending or resuming the criminal prosecution, not initiating criminal prosecution, or terminating the criminal prosecution;

6) Based on the materials of the proceedings, render a decision, upon his initiative, on engaging a person as the Accused, not initiating criminal prosecution, or terminating the criminal prosecution;

7) Within the limits of his authority, issue an Instruction to the Head of an Investigative Body on having the proceedings conducted by an investigative team;

8) Render a decision on a Recusal express in respect of an Inquiry Officer, the Head of an Inquiry Body, an Investigator, or the Head of an Investigative Body, or their Self-Recusal;

9) On the basis of the materials of the Criminal Proceedings or as a result of checking information about the course of the Preliminary Investigation, and acting in the context of supervising the lawfulness of the initiation of criminal prosecution or the lawfulness of Inquiry or the lawfulness of Preliminary Investigation, or in the context of supervising the lawfulness of the application of coercive measures, give the Investigator Instructions on carrying out Proving Actions or Actions of Proceedings or rendering decisions concerning thereto;

10) In compliance with the requirements of this Code, participate in the questioning of the Accused and investigative actions performed on the basis of his Instruction;

11) Render a decision on the Objections of the Head of the Inquiry Body concerning the Investigator's Instructions;

12) Render a decision on the Investigator's Objections concerning the Instructions of the Head of the Investigative Body;

13) Terminate the unlawful or groundless decisions of a Head of the Inquiry Body, an Investigator, or a Head of an Investigative Body, as well as unlawful or groundless Instructions of a Head of an Investigative Body or an Investigator;

14) Render a decision on the complaints lodged by a Private Participant in the Proceedings or other persons against the Actions of Proceedings taken by a Head of the Inquiry Body, an Investigator, or a Head of an Investigative Body;

15) In case of committing grave or repeated violations of the law during the Criminal Proceedings, remove the Head of the Inquiry Body, the Inquiry Officer, or the Investigator from participation in the relevant proceedings, but may not render a decision on appointing another person to replace him;

16) Apply to the competent bodies with Petitions to obtain authorization to detain or to initiate criminal prosecution of persons enjoying immunity from criminal prosecution;

17) Approve an accusatory conclusion, an accusatory act, or a conclusive act, and deliver the Criminal Case File to the Court for conducting the Court Examination, and endorse the Investigator's decision on discontinuing the Criminal Proceedings;

18) In the cases stipulated by this Code, render a decision on not endorsing an accusatory conclusion, an accusatory act, a conclusive act, or the Investigator's decision on discontinuing the Criminal Proceedings, and return the Criminal Case File to the Head of the Investigative Body with an Instruction to continue the proceedings;

19) In the cases stipulated by this Code, consent to lodging an Investigator's Petition with Court, and may withdraw a Petition lodged with Court by an Investigator or participate in the Judicial Safeguards proceedings;

20) Sign the pre-trial consent agreement;

21) Render a decision for immediately terminating any unlawful limitation of a person's rights or freedoms, including the release of persons held unlawfully;

22) Based on the grounds prescribed by this Code, render a decision on proceedings conducted under a simplified Preliminary Investigation procedure being conducted under a regular procedure; and

23) During the Pre-Trial Proceedings, exercise other powers reserved for his authority under this Code.

Article 39. Powers of the Prosecutor during the Court Proceedings

1. The Prosecutor may:

1) Express Recusals;

2) Initiate Petitions;

3) Present objects and documents related to the Criminal Proceedings in accordance with the procedure defined by law;

4) In accordance with the procedure defined by law, demand presentation of objects and documents related to the Criminal Proceedings, if they are necessary for expressing a position on new Evidence presented by Private Participants in the Proceedings;

5) Object to the actions or inaction of the Court or of the participants of Court Proceedings;

6) As a result of Evidence examination, change the legal assessment of the act attributed to the Accused;

7) After a conviction verdict, express a position on the sentence to be imposed;

- 8) Present objections concerning the Court session Protocol;
 - 9) Appeal Judicial Acts in the cases and procedure defined by this Code;
 - 10) Participate in the Court session in the appellate and cassation Courts; and
 - 11) Exercise other rights reserved for him by this Code.
2. The Prosecutor shall be obliged:
 - 1) To participate in the Court Examination in the first instance Court, and to make an opening statement and a closing speech;
 - 2) To participate in the examination of Evidence and other materials of the Criminal Proceedings;
 - 3) To express a position on a Petition to apply agreement proceedings;
 - 4) For the protection of the property interests of the state, to initiate a claim against the Accused or against a person who bears property responsibility for the actions of the Accused;
 - 5) To express an opinion on any issue arising during the proceedings;
 - 6) In the cases and procedure provided by this Code, to change or to supplement the Accusation; and
 - 7) To comply with the rules of order in the Court session and the Presiding Judge's Instructions.

Article 40. Powers of a Head of an Investigative Body

1. To ensure the effective organization of Preliminary Investigation, a Head of an Investigative Body may:
 - 1) Assign the performance of the Preliminary Investigation to an Investigator;
 - 2) Render a decision on transferring the proceedings from one Investigator to another within the same unit: if such transfer may result in change of the Preliminary Investigation performance location, then such transfer may be done only with the written consent of the respective higher-ranking Prosecutor;
 - 3) Become familiar with the materials of proceedings conducted by an Investigator working under his authority, and, within the limits of his authority, give logistical Instructions to the Investigator based on it;
 - 4) Render a decision on replacing with another Investigator an Investigator removed from the proceedings;
 - 5) At his initiative or based on the Prosecutor's Instruction, render a decision on having the proceedings conducted by an investigative team;

6) In proceedings conducted by a specific Investigator, instruct Investigators of the same unit to perform certain Proving Actions or other Actions of Proceedings, provided that there is no need for the proceedings to be conducted by an investigative team;

7) Render a decision on personally conducting the Preliminary Investigation, exercising all the powers prescribed by this Code for an Investigator;

8) Oversee the performance by the Investigator of Proving Actions and other Actions of Proceedings, the Prosecutor's decisions, Instructions of the Prosecutor and of the Head of the Investigative Body, as well as the Investigator's compliance with the criminal prosecution and detention deadlines;

9) Ensure the execution of a Prosecutor's Instruction about continuing proceedings in a returned Criminal Case File;

10) Exercise other powers reserved for his authority by this Code.

2. The Head of the Investigative Body shall immediately send to the supervising Prosecutor copies of the decisions and Instructions stipulated by Paragraph 1 of this Article.

Article 41. Powers of an Investigator

An Investigator may:

1) If the prima-facie features of a crime are present, prepare a Protocol on initiating Criminal Proceedings and immediately undertake the performance of the Preliminary Investigation, giving written notice thereof to the Prosecutor;

2) Autonomously steer the Preliminary Investigation, take the necessary decisions, and perform investigative actions and other Actions of Proceedings in accordance with this Code;

3) In case of discovering features of another alleged crime during the Preliminary Investigation, immediately give written notice thereof to the supervising Prosecutor;

4) Render a decision on arresting a person or releasing an arrested person;

5) Apply to Court with Petitions stipulated by this Code on applying coercive measures, prolonging the detention term, and performing investigative and undercover investigative actions, immediately sending a copy of the relevant Petition to the supervising Prosecutor;

6) With the consent or by Instruction of a supervising Prosecutor, release an Accused or a detained;

- 7) In the cases provided by this Code, terminate any unlawful limitation of a person's rights or freedoms;
- 8) Within the limits of his authority, render a decision on applying changing, or terminating a restraint measure;
- 9) Take measures to secure the compensation of damage inflicted by an alleged crime, or to secure the potential confiscation of property and the compensation of Court expenses;
- 10) Issue Instructions to the Inquiry Body on performing undercover investigative actions and operative-intelligence measures;
- 11) Demand from the Inquiry Body the results of operative-intelligence measures and undercover investigative actions;
- 12) Instruct the Inquiry Body to execute Arrest and detention decision, and receive support from the Inquiry Body during the performance of Proving Actions and other Actions of Proceedings;
- 13) File a Petition with the supervising Prosecutor on engaging a person as the Accused, suspending or resuming the criminal prosecution, not initiating criminal prosecution, or terminating the criminal prosecution;
- 14) Render a decision on recognizing a Victim or a Lawful Representative;
- 15) Ensure an attorney's participation in the proceedings as a Defender or an Authorized Representative;
- 16) Engage a witness, an expert, a translator, or a procedure observer in the proceedings;
- 17) Within the limits of his authority, render decisions regarding Petitions of the Private Participants in the Proceedings;
- 18) Annex the objects or documents presented by the Private Participants in the Proceedings to the materials of the proceedings as Evidence, or render a decision on the impermissibility or irrelevance of such objects or documents based on the grounds prescribed by this Code;
- 19) Render a decision regarding the Recusal expressed in relation to a procedure observer, a translator, or an expert;
- 20) In the cases and procedure stipulated by this Code, relieve the Defender, the Authorized Representative, the Lawful Representative, or the witness's attorney from participation in the proceedings, or remove them from the proceedings with the approval of the supervising Prosecutor;

21) Present an Objection to a higher-ranking Prosecutor regarding an Instruction or decision of the supervising Prosecutor, provided that such Objection shall not suspend the execution of such Instruction or decision;

22) In case of disagreeing with the supervising Prosecutor's Instruction to discontinue the proceedings or otherwise to conclude the Preliminary Investigation or to apply a coercive measure, present an Objection regarding it to the higher-ranking Prosecutor, without executing it;

23) Present an Objection to the supervising Prosecutor regarding an Instruction or decision of the Head of an Investigative Body;

24) Render a decision on discontinuing the Criminal Proceedings and present such decision to the supervising Prosecutor for approval;

25) Prepare an accusatory conclusion, an accusatory act, or a conclusive act, and present it to the supervising Prosecutor for approval;

26) By Instruction of the Head of an Investigative Body, continue the proceedings in a Criminal Case File returned by the Prosecutor; and

27) Exercise other powers reserved for his authority by this Code.

Article 42. Powers of the Inquiry Body

1. An Inquiry Officer may:

1) Carry out operative-intelligence measures stipulated by the Republic of Armenia Law on Operative-Intelligence Activities;

2) Carry out undercover investigative actions in accordance with this Code;

3) Facilitate the performance of Proving Actions and other Actions of Proceedings;

4) In accordance with the procedure provided by law, present the results of operative-intelligence measures and undercover investigative actions to an Investigator;

5) In case of discovering features of a new crime while performing the Inquiry, immediately give written notice to the Investigator;

6) If reasonable suspicion has arisen directly about a crime having been committed, perform an Arrest and the accompanying personal search, and immediately inform the competent Prosecutor thereof;

7) Immediately release a person arrested at his initiative, if there is no need for keeping the person in custody, and immediately notify the competent Prosecutor thereof;

8) Take measures for securing the documents and objects of significance to the Criminal Proceedings, as well as the Incident Scene; and

9) Exercise other powers reserved for his authority under this Code and the Republic of Armenia Law on Operative-Intelligence Activities.

2. An Inquiry Officer shall exercise the powers prescribed by sub-paragraphs 1, 2, and 3 of Paragraph 1 of this Article only based on an Investigator's Instruction.

3. The Head of an Inquiry Body may:

1) Within the limits of his authority, organize and ensure the exercise of the powers prescribed by Paragraph 1 of this Article;

2) Personally exercise the powers prescribed by Paragraph 1 of this Article;

3) Based on an Investigator's Instruction, render a decision on implementing operative-intelligence measures;

4) Present an Objection to a supervising Prosecutor about an Investigator's unlawful or groundless Instruction;

5) If demanded in writing by a Prosecutor, present to the latter, for checking, the documents provided by law for implementing operative-intelligence measures and undercover investigative actions; and

6) Exercise other powers reserved for him under this Code and the Republic of Armenia Law on Operative-Intelligence Activities.

CHAPTER 6. PRIVATE PARTICIPANTS IN THE PROCEEDINGS

Article 43. Rights and Obligations of the Accused

1. The Accused shall have the right, in accordance with the procedure prescribed by this Code:

1) Immediately after his Arrest or presentation of the Accusation, to receive, at no cost, written notification and explanation of his rights prescribed by Paragraph 1 of this Article;

2) In a language that he understands, to be informed immediately and thoroughly about the factual circumstances and legal assessment of the Accusation presented to him and, in case of being taken into custody, also about the grounds and reasons for depriving him of liberty;

- 3) Immediately after presenting the Accusation, to receive, at no cost, a copy of the decision on engaging him as the Accused and, in case of being taken into custody, also a copy of the Arrest decision or the detention decision;
- 4) Immediately after the Arrest or the detention, but not later than within six hours thereof, to inform a person of his choosing and, in case of being a military serviceman, also his commander, about his whereabouts;
- 5) In case of Arrest or detention, to demand a medical examination at no cost and to receive a report at no cost, as well as to invite a doctor of his choosing and to communicate with him without any obstacles, including without any visual or auditory surveillance;
- 6) To remain silent or to provide Testimony in the presence of a Defender;
- 7) From the time of Arrest or presentation of the Accusation, to have a Defender of his choosing or to defend himself and, in case of not having the means to pay for a Defender's services, to have a Defender appointed at the expense of the state;
- 8) To meet, confidentially and without obstacles, with his Defender, free from any arbitrary limitation of the number and duration of such meetings;
- 9) Before giving Testimony, to be informed in writing about the right not to give Testimony about one's self and one's spouse and Close Relatives, as well as the fact that one's Testimony may be used as Evidence;
- 10) To cross-question persons testifying against him or to have such persons cross-questioned, and to have persons testifying for him invited and questioned on the same terms as persons testifying against him;
- 11) To participate in Proving Actions and other Actions of Proceedings, which are performed upon his Petition or his Defender's Petition, provided that it does not harm the interests of other persons or the interests of justice;
- 12) To receive the decision of the Body Conducting the Criminal Proceedings about not permitting his participation in a Proving Action performed upon his Petition or his Defender's Petition;
- 13) To present Evidence for annexing to the materials of the proceedings and for examination;
- 14) To declare about his innocence or guilt;
- 15) To file Petitions;
- 16) To express Recusals;
- 17) To object to actions of Public Participant in the Proceedings;

18) To become familiar with the Protocol of a Proving Action or another Action of Proceedings, which was performed with his participation, to present comments on the accuracy and completeness of records made in such Protocol, to become familiar with the Court session Protocol and to present his comments thereon, and, in case of participating in Proving Actions and other Actions of Proceedings and being present at the Court session, to demand that circumstances mentioned by him be recorded in the relevant Protocol;

19) Upon his request, to receive, at no cost, a copy of the Protocol of a Proving Action or another Action of Proceedings performed with his participation;

20) To become familiar with decisions to apply a restraint measure or other coercive measure in relation to him, and decisions to order an expert examination, and, upon his request, to receive copies of such decisions and the expert report at no cost;

21) To receive, at no cost, a copy of the accusatory conclusion, the accusatory act, the conclusive act, the criminal claim, the property claim, and the Conclusive Judicial Act;

22) From the time the Preliminary Investigation ends, to become familiar with all the materials of the proceedings, to receive their copies at no cost, and to write out any information from them;

23) To file Petition asking the Court to apply agreement proceedings;

24) To file Petition asking the supervising Prosecutor to apply cooperation proceedings;

25) To receive proper notice of the time and place of conducting the Court session;

26) To be present in Court sessions of the first instance and appellate Courts, to participate in the Evidence examination, and to make an opening statement, a closing speech, and a conclusive statement;

27) To appeal the Actions of Proceedings of the Public Participants in the Proceedings or of the Court, including their Conclusive Procedural Acts;

28) To withdraw an appeal lodged;

29) To be informed of an appeal lodged by another Participant in the Proceedings, which concerns his interests, and to present a response thereto;

30) In the Court session, to express an opinion about Petitions and statements of other Participants in the Proceedings;

31) To object to actions of other Participants in the Proceedings or of the Court session presiding Judge;

32) To receive compensation of damage inflicted by the unlawful actions of Public Participants in the Proceedings or of the Court;

33) In case of a threat to his or his family member's or other close person's life, health, and legitimate interests, to request special protection from the Body Conducting the Criminal Proceedings; and

34) To exercise other rights reserved for him by this Code.

2. The Accused shall be obliged:

1) To appear when summoned by the Body Conducting the Criminal Proceedings;

2) When demanded by the Body Conducting the Criminal Proceedings, to undergo a medical examination, fingerprinting, a personal search, an inspection and expert examination, to be photographed, and to provide samples stipulated by this Code for expert examinations;

3) Not to obstruct the Criminal Proceedings, including not to interfere unlawfully with the proving process;

4) When leaving for another place, to give the Body Conducting the Criminal Proceedings advance notice of his new whereabouts and the means of communication with him; and

5) To abide by the Instructions of the Body Conducting the Criminal Proceedings and the rules of order in the Court session.

Article 44. Lawful Representative of the Accused

1. A person has the right to be recognized as the Lawful Representative of a person who is a minor or incapable and is his child or adoptive child or is under his guardianship or trust, who has been engaged as the Accused. An employee of the competent guardianship and trust authority shall be engaged as the Lawful Representative to represent the legitimate interests of an Accused left without care who is a minor.

2. A person shall be recognized as the Lawful Representative of an Accused by a decision of the Body Conducting the Criminal Proceedings.

3. The Body Conducting the Criminal Proceedings may decide to permit, as a rule, only one parent, adoptive parent, guardian, or trustee to participate in the proceedings as the Lawful Representative of the Accused. The parent, adoptive parent, guardian, or trustee shall be permitted to participate as the Lawful Representative if he is the one whose candidacy, in case of his consent, is defended by the others.

4. The Lawful Representative of the Accused shall have all the rights and bear all the obligations of the Accused, with the exception of the rights and obligations that are inseparable from the person of the Accused.

5. The Lawful Representative of the Accused shall also have the right:

1) To know what the Accused is accused of;

2) To know about the Accused being summoned to the Body Conducting the Criminal Proceedings and to accompany the Accused while in freedom or under house arrest;

3) To participate in the presentation of the Accusation; and

4) To participate in the questioning of the Accused and in other Proving Actions performed with the participation of the Accused.

6. The Lawful Representative of the Accused may not perform any action that contradicts the interests of the Accused.

7. The Lawful Representative of the Accused shall personally exercise all of his rights and carry out all of the obligations placed upon him.

8. The Lawful Representative of the Accused may be summoned and questioned as a witness.

Article 45. Grounds and Conditions of the Defender's Participation in the Criminal Proceedings

1. An attorney shall participate in the Criminal Proceedings as a Defender:

1) If invited by the Accused or his Lawful Representative or Close Relative, as well as by another person with the subsequent written consent of the Accused; or

2) If appointed by the Chamber of Attorneys of the Republic of Armenia on the basis of the written demand of the Body Conducting the Criminal Proceedings.

2. The Body Conducting the Criminal Proceedings shall demand the Chamber of Attorneys of the Republic of Armenia to appoint a Defender if:

1) In the cases provided by this Code, the Defender's participation in the proceedings is mandatory and the Accused does not have a Defender;

2) The Accused declares that he does not have sufficient means to pay for the services of a Defender.

3. In the case provided by sub-paragraph (1) of Paragraph 2 of this Article, prior to initiating the appointment of a Defender, the Body Conducting the Criminal Proceedings shall be obliged to propose that the Accused invite a Defender of his choosing.

4. The Body Conducting the Criminal Proceedings may not recommend any attorney to be invited as a Defender.

5. To assume the defense, the Defender shall present the following to the Body Conducting the Criminal Proceedings:

- 1) A personal identification document;
- 2) A document confirming that he is an attorney; and
- 3) A document confirming his authority, which is confirmed by the signature of a person who has the right to invite a Defender under this Code, or a decision of the competent body on appointing a Defender.

6. Within the same set of proceedings, one Defender may represent only one Accused person, save for cases in which such a prohibition could reasonably undermine the interests of justice, and two or more of the Accused have voluntarily, consciously, and in writing waived the possibility of being represented by different Defenders.

7. One Accused person may have more than one Defender. The participation of all the Defenders of the Accused in the Actions of Proceedings shall not be mandatory. An Action of Proceedings in which a Defender's participation is mandatory may not be declared as unlawful on the basis of not all the Defenders of the Accused having participated in such Action.

Article 46. Mandatory Participation of a Defender

1. A Defender's participation in the proceedings shall be mandatory from the moment of the person's Arrest until the moment the Accusation is presented, unless the Accused has waived the Defender in the cases and procedure stipulated by this Code.

2. The Body Conducting the Criminal Proceedings shall not accept the waiver of the Defender by the Accused or shall take immediate measures to secure the participation of a Defender in the proceedings if:

- 1) It is difficult for the Accused to defend himself due to mental or physical handicap or obvious mental underdevelopment;
- 2) The Accused does not master or does not sufficiently master the Armenian language;
- 3) The Accused was a minor at the time of committing the act attributed to him;
- 4) The Accused is a military serviceman;

- 5) The Accused has been declared as incapable by a Court's Judicial Act that has entered into legal force;
- 6) Proceedings of applying compulsory medical measures are being conducted in respect of the person;
- 7) The Accused is accused of having committed a particularly grave crime;
- 8) The Accused persons have conflicting interests, and one of them has a Defender;
- 9) The Accused has filed a Petition for applying agreement or cooperation proceedings;
- 10) A procedural sanction stipulated by Paragraph 2(3) of Article 116 of this Code has been applied in relation to the Accused;
- 11) The Body Conducting the Criminal Proceedings has dismissed the Defender from participation in the subsequent proceedings;
- 12) The Body Conducting the Criminal Proceedings has removed the Defender from the proceedings; or
- 13) The interest of justice so requires.

3. In the cases stipulated by Paragraph 2 of this Article, when the Accused does not have a Defender, the Body Conducting the Criminal Proceedings shall be obliged to ensure a Defender's participation in the proceedings immediately after the emergence of the respective ground rendering such participation mandatory.

Article 47. Waiver of a Defender

1. Waiver of a Defender is the statement of the Accused about conducting his defense on his own (personally) without the help of any Defender. The statement of the Accused about waiving a Defender shall be documented in a Protocol compiled by the Body Conducting the Criminal Proceedings.

2. Waiver of a Defender shall be accepted by the Body Conducting the Criminal Proceedings only if the Accused has made the statement thereon at his own initiative, voluntarily, and in the presence of the Defender participating in the proceedings. The Accused is not obliged to disclose the reasons for waiving a Defender. When waiver of a Defender is due to the inability of the Accused to pay, the Body Conducting the Criminal Proceedings shall, in accordance with the procedure stipulated by this Code, immediately demand appointment of a Defender at the expense of the state.

3. The Accused who has waived a Defender shall have the right at any time to demand engaging a new Defender in the proceedings. The participation of a new Defender shall not constitute a basis for restarting the proceedings.

4. The expressed will of the Accused to waive the new Defender shall not be binding for the Body Conducting the Criminal Proceedings if the Accused is obviously abusing his right to waive a Defender. In such case, the Body Conducting the Criminal Proceedings shall render a decision on refusing to accept the waiver of the Defender.

Article 48. Termination of a Defender's Participation

A Defender's participation in the Criminal Proceedings in his capacity of a Defender shall cease if:

1) The arrested person or the Accused or his Lawful Representative have terminated the powers of the invited Defender;

2) The Body Conducting the Criminal Proceedings has accepted the waiver of the Defender by the Accused in the cases and procedure stipulated by this Code;

3) The Body Conducting the Criminal Proceedings has, in view of circumstances prescribed by this Code, dismissed the Defender from subsequent participation in the proceedings; or

4) The Body Conducting the Criminal Proceedings has removed the Defender from the proceedings based on the grounds and in the procedure stipulated by this Code.

Article 49. Rights and Obligations of the Defender

1. For the purpose of revealing circumstances refuting the Accusation, precluding the liability of the Accused, mitigating the sentence or the procedural compulsion measures, or protecting the rights and interests of the Accused, the Defender shall have the right, in accordance with the procedure stipulated by this Code:

1) To find out what the Accused is suspected of, or become familiar with the Accusation presented against him, and to participate in his questioning;

2) To have separate, confidential, and unhindered meetings with the person defended by him;

3) To participate in any Proving Action or other Action of Proceedings performed with the participation of the person defended by him, to participate in any Proving Action or other Action of Proceedings performed upon his Petition or Petition by

the person defended by him, and to participate in Proving Actions or other Actions of Proceedings upon the proposal by the Investigator in other cases;

4) To explain to the Accused his rights, and to draw the attention of the person performing Proving Actions or other Actions of Proceedings to a violation of the law committed by such person;

5) To obtain and present Evidence for annexing to the materials of the proceedings and for examination;

6) In case of consent, to ask questions of natural persons;

7) To demand and to receive documents or information from state and local government bodies or sole entrepreneurs or legal entities, unless they contain secrets protected by law;

8) To receive the opinion of experts on matters requiring special knowledge related to the performance of the defense of the Accused;

9) To express Recusals;

10) To initiate Petitions;

11) To object to the actions of Public Participants in the Proceedings;

12) To become familiar with the Protocols of Proving Actions or other Actions of Proceedings, in which he or the person defended by him participated, to present comments on the accuracy and completeness of what is recorded in such Protocols, to become familiar with the Court session Protocol and to present his comments thereon, and in case of participation in a Proving Action or other Actions of Proceedings or being present in a Court session, to demand incorporation in the respective Protocol of the circumstances pointed out by him;

13) Upon his request, to receive copies of the Protocols of Proving Actions or other Actions of Proceedings, in which he or the person defended by him participated, as well as copies of the proceedings documents which the person defended has the right to receive under this Code;

14) At the completion of the Preliminary Investigation, to become familiar with all the materials of the proceedings, to make copies thereof, and to write out any information from the case;

15) To be present in sessions of first instance, appellate, and cassation Courts, to participate in the examination of Evidence, and to make an opening statement and a closing speech;

16) To appeal against Actions of Proceedings of the Public Participants in the Proceedings and of the Court, including Conclusive Procedural Acts;

17) To withdraw any appeal presented by him, with the exception of the cases stipulated by this Code;

18) To be informed of an appeal lodged by another Participant in the Proceedings, which concerns the interests of the person defended by him, and to present a response to such appeal;

19) In case of the Accused settling with the Victim, act on behalf of the person defended by him based on such person's Instruction;

20) During a Court session, to express an opinion about the Petitions and statements of other Participants in the Proceedings

21) To objection to actions of other Participants in the Proceedings or actions of the Court session presiding Judge;

22) To receive remuneration from the person defended by him or, in case of providing legal aid to the Accused at the expense of the state resources, from the state budget of the Republic of Armenia;

23) In case of a threat to his or his family member's or other close person's life, health, and legitimate interests, to request special protection from the Body Conducting the Criminal Proceedings; and

24) To exercise other rights reserved for him by this Code.

2. A Defender shall not have the right:

1) To perform any action that contradicts the interests of the person defended by him;

2) Contrary to the position of the person defended by him, to admit the relationship of such person to the crime and guilt in committing it;

3) To disclose information that became known to him during the performance of the defense, with the exception of the cases stipulated by law;

4) To terminate his own powers arbitrarily;

5) To hinder the invitation or appointment of another Defender or the participation of the latter in the proceedings; and

6) To transfer to another person his powers to participate in the proceedings.

3. Unless specifically instructed by the person defended by him, the Defender shall not have the right:

1) To declare that the person defended by him has settled with the Victim;

2) To accept a criminal claim or a property claim filed against the Accused; or

3) To withdraw an appeal filed by the Accused.

4. The Defender shall be obliged:
 - 1) Immediately after assuming the defense, to notify the Body Conducting the Criminal Proceedings thereof;
 - 2) To appear when invited by the Body Conducting the Criminal Proceedings for the purpose or providing legal assistance to the Accused;
 - 3) To abide by the Instructions of the Body Conducting the Criminal Proceedings and the rules of order in the Court session; and
 - 4) To request the Body Conducting the Criminal Proceedings to dismiss him from participation in the proceedings, if the failure to do so will inevitably damage the legitimate interests of the person defended by him.

Article 50. Rights and Obligations of the Victim

1. The decision on recognizing a victim may be taken by an Investigator or by a Court.
2. In accordance with the procedure stipulated by this Code, a Victim shall have the right:
 - 1) To become familiar with the Accusation presented against the Accused;
 - 2) To give Testimony;
 - 3) To refuse giving Testimony or providing materials if they may later be used or construed to his or her detriment or to the detriment of his or her spouse or Close Relative;
 - 4) To present Evidence to be annexed to the materials of the proceedings and to be examined;
 - 5) To initiate Petitions;
 - 6) To express Recusals;
 - 7) To have an Authorized Representative and to terminate his powers;
 - 8) To receive copies of Procedural Acts concerning his status;
 - 9) To object to actions of the Public Participants in the Proceedings;
 - 10) To become familiar with the Protocols of Proving Actions or other Actions of Proceedings, in the performance of which he participated, to present comments on the accuracy and completeness of what is recorded in such Protocols, to become familiar with the Court session Protocol and to present his comments thereon, and in case of participation in a Proving Action or other Actions of Proceedings or being

present in a Court session, to demand incorporation in the respective Protocol of the circumstances pointed out by him;

11) Upon his request, to receive, at no cost, a copy of the decision on engaging a person as the Accused, the decision on not initiating criminal prosecution or terminating or suspending criminal prosecution, and the decision on suspending the Criminal Proceedings, as well as a copy of the accusatory conclusion, the accusatory act, the conclusive act, the criminal claim, and the Conclusive Judicial Act;

12) Upon his request, to receive a copy of the Protocol of a Proving Action or another Action of Proceedings performed with his participation, as well as a copy of the decision to order an expert examination and of the expert report;

13) At the completion of the Preliminary Investigation, to become familiar with all the materials of the proceedings, to receive copies thereof, and to write out any information;

14) To receive proper notice of the time and place of conducting the Court session;

15) To be present in Court sessions of the first instance, appellate, and cassation Courts, to participate in the Evidence examination, and to make a closing speech;

16) To appeal the Actions of Proceedings of the Public Participants in the Proceedings or of the Court, including their Conclusive Procedural Acts;

17) To withdraw an appeal lodged by him or his Authorized Representative;

18) To be informed of an appeal lodged by another Participant in the Proceedings, which concerns his interests, and to present a response thereto;

19) In the Court session, to express an opinion about Petitions and statements of other Participants in the Proceedings;

20) To object to actions of other Participants in the Proceedings or of the Court session presiding Judge;

21) To settle with the Accused in the cases prescribed by this Code;

22) To file a property claim in Court for compensation of the pecuniary damage allegedly inflicted upon him, to change the property claim prior to completion of the Evidence examination, or to abandon the property claim prior to the Court moving to the deliberation room;

23) To receive compensation of the damage inflicted by the crime;

- 24) To receive compensation of the costs incurred during the proceedings;
- 25) To receive back the property and originals of documents owned by him, which were taken by the Body Conducting the Criminal Proceedings;
- 26) In the cases provided by law, to be relieved of the obligation to pay for the services of his representative;
- 27) In case of a threat to his or his family member's or other close person's life, health, and legitimate interests, to request special protection from the Body Conducting the Criminal Proceedings; and
- 28) To exercise other rights reserved for him by this Code.

3. A Victim shall be obliged:

- 1) To appear when invited by the Body Conducting the Criminal Proceedings;
- 2) To give truthful testimony;
- 3) When demanded by the Body Conducting the Criminal Proceedings, to give samples for expert examination or undergo an inspection or an examination;
- 4) When demanded by the Body Conducting the Criminal Proceedings, to undergo an outpatient expert examination for the purpose of checking his ability to correctly perceive, memorize, and reproduce circumstances subject to disclosure during the proceedings, if there are grounds to question his ability to do so;
- 5) When travelling to another place, to give the Body Conducting the Criminal Proceedings prior notice of his new whereabouts and the means of communication with him; and
- 6) To abide by the Instructions of the Body Conducting the Criminal Proceedings and the rules of order in the Court session.

4. A Victim shall exercise his rights and carry out his obligations personally or through a representative, if it corresponds to the nature of such rights and obligations. The rights of a Victim who is a minor or incapable shall, in the procedure stipulated by this Code, be exercised by his Lawful Representative instead of him.

5. The rights and obligations of a legal entity recognized as a Victim shall be exercised by its Lawful Representative.

6. If there are sufficient grounds that have emerged during the proceedings, an Investigator or a Court shall render a decision on terminating Victim status.

Article 51. Recognition of a Victim Instead of a Deceased Victim or Instead of a Person Subject to Recognition as a Victim

1. A person shall have the right to be recognized as a Victim in case of the death of his Close Relative who was a Victim or a person subject to recognition as a Victim.

2. If a Victim or the person that was subject to recognition as a Victim has deceased, then one of the Close Relatives of the deceased, who has filed such Petition to the Body Conducting the Criminal Proceedings during the period stipulated by this Code, shall be recognized as the Victim.

3. As a rule, only one of the Close Relatives of a deceased Victim or a deceased person who was subject to recognition as a Victim shall be recognized as a Victim. A Close Relative may be recognized as the Victim if his candidacy is, in case of his consent, supported by the others.

4. In case of the absence of Close Relatives of the deceased or their failure to file an appropriate Petition, the Body Conducting the Proceedings shall recognize one of the Relatives of the deceased as the Victim, subject to the consent of such relative.

5. A person who is recognized as a Victim under the procedure prescribed by this Article shall enjoy all the rights of a Victim, with the exception of the rights prescribed by sub-paragraphs 17 and 21 of Paragraph 2 of Article 50 of this Code, as well as bear all the obligations of a Victim, with the exception of the obligation prescribed by sub-paragraph 3 of Paragraph 3 of Article 50 of this Code.

Article 52. The Victim as a Private Accuser

1. In proceedings conducted through a private Accusation procedure, a person shall be recognized as a Victim, if there are sufficient grounds, based on the criminal claim filed by him, to presume that the acts prescribed by Paragraph 1 of Article 446 of this Code have inflicted or could, in case of completing the alleged crime, inflict damage upon him.

2. In private Accusation proceedings, a person shall be recognized as a Victim by a Court decision on initiating the Criminal Proceedings.

3. A Victim who is a Private Accuser shall also have the additional rights and bear the additional obligations stipulated by Chapter 54 of this Code.

Article 53. Lawful Representative of a Victim

1. A person shall have the right to be recognized as the Lawful Representative of his child or adoptive child or person under his guardianship or trust, who is a minor or incapable and has been recognized as a Victim. An employee of a guardianship and trusteeship authority shall be engaged as a Lawful Representative for representing the legitimate interests of a Victim who is a minor left without care. The head of a legal entity recognized as the Victim may be recognized as the Lawful Representative of the Victim.

2. A person shall be recognized as the Lawful Representative of a Victim by a decision of the Body Conducting the Criminal Proceedings.

3. The Body Conducting the Proceedings may decide to permit, as a rule, only one parent, adoptive parent, guardian, or trustee to participate in the proceedings as the Lawful Representative of the Victim. The parent, adoptive parent, guardian, or trustee may be permitted to participate as a Lawful Representative if his candidacy is, in case of his consent, supported by the others.

4. The Lawful Representative of a Victim shall have all the rights and bear all the obligations of the Victim, with the exception of the rights and obligations that are inseparable from the person of the Victim.

5. The Lawful Representative of a Victim shall also have the right:

1) To know about the Victim being invited to the Body Conducting the Criminal Proceedings and to accompany him; and

2) To participate in the Victim's questioning and other Proving Actions performed with his participation.

6. The Lawful Representative of a Victim may not perform any action that contradicts the interests of the Victim.

7. The Lawful Representative of a Victim shall personally exercise all of his rights and carry out all of the obligations placed upon him.

8. The Lawful Representative of a Victim may be questioned as a witness.

Article 54. Authorized Representative of a Victim

1. A person shall be recognized as the Authorized Representative of a Victim by decision of the Body Conducting the Criminal Proceedings.

2. A Victim may have several Authorized Representatives: the Body Conducting the Criminal Proceedings may limit the number of Authorized

Representatives participating in an Action of Proceedings or in a Court session, provided it will not undermine the interest of justice.

3. A Victim's representative with general authority has all the rights and bears all the obligations of the Victim, with the exception of the rights and obligations that are inseparable from the Victim's person. He may participate in all the Actions of Proceedings in which the Victim participates.

4. The Victim's Authorized may not perform any action that contradicts the Victim's interests. The Victim's representative may not do the following on behalf of the Victim without special authorization:

1) Withdraw a criminal claim related to the commission of an act prescribed by the Criminal Code against the Victim;

2) Settle with the Accused;

3) Waive or change the amount a property claim that has been filed; or

4) Withdraw an appeal filed for the victim's benefit.

5. The Victim's Authorized Representative shall personally exercise all of his rights and carry out all of the obligations placed on him.

Article 55. Rights and Obligations of a Property Respondent

1. The decision to recognize a Property Respondent shall be taken by a Court.

2. A Property Respondent shall have the right, in accordance with the procedure defined by this Code:

1) To become familiar with the Accusation presented to the Accused;

2) To become familiar with the property claim filed against him and the materials substantiating it;

3) To present a response to a property claim filed against him;

4) To present Evidence for annexing to the materials of the proceedings and for examination;

5) To initiate Petitions;

6) To express Recusals;

7) To have an Authorized Representative and to terminate his powers;

8) In Court, to become familiar with all the materials of the proceedings, to make copies thereof, and to write out any information from the case;

9) To receive, at no cost, copies of the property claim filed against him and copies of the materials annexed to such claim;

10) Upon his request, to receive a copy of the accusatory conclusion, the accusatory act, or the conclusive act, as well as to receive, at no cost, a copy of the Conclusive Judicial Act;

11) To be present in Court sessions of first instance, appellate, and cassation Courts, to participate in the examination of Evidence, and to make a closing speech;

12) In the Court session, to express an opinion regarding the Petitions and statements of other Participants in the Proceedings concerning the property claim;

13) To object to actions of other Participants in the Proceedings or the Court session presiding Judge concerning the property claim, and to demand incorporation in the Court session Protocol of the circumstances pointed out by him;

14) To become familiar with the Court session Protocol and to present comments on the accuracy and completeness of records made therein;

15) To appeal, in accordance with the procedure stipulated by this Code, the part of the Judicial Act that concerns the claim against him;

16) To withdraw an appeal lodged by him or his representative;

17) To become informed of an appeal lodged by another Participant in the Proceedings, if it concerns his interests, and to present a response to such appeal;

18) To accept the claim before the Court moves to a separate room for rendering the Conclusive Judicial Act;

19) For the purpose of securing a claim lodged against him, to deposit funds with the Court as an alternative to the seizure imposed on his property; and

20) To exercise other powers reserved for him by this Code.

3. A Property Respondent shall be obliged:

1) To appear when invited by the Court;

2) When demanded by the Court, to present objects, documents, or other materials that are under his control; and

3) To abide by the Instructions of the Court session presiding Judge and the rules of order in the Court session.

4. A Property Respondent shall exercise his rights and carry out his obligations personally or through a representative, if it corresponds to the nature of such rights and obligations.

5. The rights and obligations of a legal entity recognized as a Property Respondent shall be exercised by its Lawful Representative.

Article 56. Representative of a Property Respondent

1. A person shall be recognized as a Lawful Representative or an Authorized Representative of a Property Respondent by a Court decision.

2. The head of a legal entity that is the Property Respondent shall have the right to be recognized as the Lawful Representative of the Property Respondent.

3. A Property Respondent may have several Authorized Representatives. A Court may limit the number of Authorized Representatives concurrently participating in a Court session, provided it will not undermine the interest of justice.

4. A Property Respondent's representative with general authority has all the rights and bears all the obligations of the Property Respondent, with the exception of the rights and obligations that are inseparable from the Property Respondent's person.

5. A Property Respondent's Authorized Representative may not perform any action that contradicts the interests of the Property Respondent.

6. A Property Respondent's Authorized Representative may not do the following on behalf of the Victim without special authorization:

- 1) To accept the property claim in full or in part;
- 2) To conclude settlement with the Victim or his representative;
- 3) To withdraw an appeal filed for the Property Respondent's benefit.

7. A Property Respondent's Lawful Representative and Authorized Representative shall personally exercise all of his rights and carry out all of the obligations placed on him.

8. A Property Respondent's Lawful Representative may be questioned as a witness.

CHAPTER 7. PERSONS SUPPORTING THE PROCEEDINGS

Article 57. The Witness

1. A witness is a person who is summoned at the initiative of a party or of the Body Conducting the Criminal Proceedings for the purpose of giving Testimony, who may be aware of any circumstance that needs to be established in the proceedings.

2. A person may be questioned as a witness after he has been informed in writing about his rights and obligations under Article 58 of this Code and the liability provided by law for giving false Testimony.

3. The following persons may not be questioned as a witness or deliver objects, documents, and other materials of importance to the proceedings:

1) A person who, due to mental or physical handicap, is not capable of correctly perceiving and reproducing the circumstance that needs to be established in the proceedings;

2) An attorney—for establishing information that may have become known to him in relation to a person applying to him for legal assistance or receiving such assistance from him;

3) A person who became aware of information concerning the particular proceedings, in relation to his participation as a Defender, or an Authorized Representative of a Victim or a Property Respondent, or an attorney for a Witness;

4) A designated confession priest, in relation to circumstances that became known to him from confession;

5) The Human Rights Defender, in relation to circumstances that became known to him due to the performance of his duties; and

6) A Judge, a former Judge, a Court session secretary, and a Prosecutor, in relation to proceedings in which they exercised their procedural powers, with the exception of the examination of mistakes and abuse during such proceedings, the reopening of the proceedings on the basis of a fundamental violation of rights or new circumstances, or the restoration of the lost materials of the proceedings or the lost Criminal Case File.

Article 58. Rights and Obligations of a Witness

1. A Witness shall have the right:

1) To know in what proceedings he is invited;

2) To appear to the Body Conducting the Criminal Proceedings with an attorney;

3) Not to provide information or materials that may subsequently be used or construed to his or her detriment or to the detriment of his or her spouse or Close Relative;

4) When giving Testimony, to use documents and his written notes with the permission of the Body Conducting the Criminal Proceedings;

- 5) When giving Testimony, to compile plans, schemes, and drawings;
 - 6) During the Pre-Trial Proceedings, to note down his Testimony personally in writing;
 - 7) To object to actions of Public Participants in the Proceedings;
 - 8) To become familiar with the Protocol of a Proving Action or another Action of Proceedings performed with his participation, as well as the relevant part of the Court session Protocol, to make comments on the completeness and accuracy of his Testimony as recorded therein, and to demand incorporation of the circumstances pointed out by him in the respective Protocol;
 - 9) To receive compensation of costs incurred during the proceedings;
 - 10) To receive back objects, documents, and other materials taken from him by the Body Conducting the Proceedings.
 - 11) In case of a threat to his or his family member's or other close person's life, health, and legitimate interests, to request special protection from the Body Conducting the Criminal Proceedings; and
 - 12) To exercise other rights reserved for him by this Code.
2. A witness shall be obliged:
- 1) To appear when invited by the Body Conducting the Criminal Proceedings, on the day and time mentioned in the written notice;
 - 2) To give truthful Testimony;
 - 3) When demanded by the Body Conducting the Criminal Proceedings, to give samples stipulated by this Code for expert examination or undergo an inspection or an examination, if it is necessary for checking the Testimony given by him;
 - 4) When demanded by the Body Conducting the Criminal Proceedings, to undergo an outpatient expert examination for the purpose of checking his ability to correctly perceive, memorize, and reproduce circumstances subject to disclosure during the proceedings, if there are grounds to question his ability to do so;
 - 5) When travelling to another place, to give the Body Conducting the Criminal Proceedings prior notice of his new whereabouts and the means of communication with him;
 - 6) Not to leave the courtroom or Court building without the permission of the presiding Judge; and
 - 7) To abide by the Instructions of the Body Conducting the Criminal Proceedings and the rules of order in the Court session.

Article 59. The Expert

1. An expert is a person disinterested in the subject matter of the proceedings, who shall, having been engaged by the Body Conducting the Criminal Proceedings or a private Participant in the Proceedings, support the proceedings by use of special knowledge or skills:

- 1) By means of performing a review and issuing a written conclusion based on it;
- 2) By means of issuing a written opinion with or without performing a review;
- 3) By means of supporting the performance of Proving Actions or other Actions of Proceedings.

2. For the support stipulated by sub-paragraph 2 of Paragraph 1 of this Article, an expert may be engaged only by a private Participant in the Proceedings. For the support stipulated by sub-paragraphs 1 and 3 of Paragraph 1 of this Article, an expert may be engaged only by the Body Conducting the Criminal Proceedings.

3. An expert must possess sufficient special knowledge in a field of science, technology, arts, crafts, or in another field.

4. Expert in the law of the Republic of Armenia and experts in international law may not be engaged in the Criminal Proceedings.

Article 60. Rights and Obligations of an Expert

1. An expert shall have the right:

1) To demand from the Body Conducting the Criminal Proceedings the objects, samples, and other materials necessary for issuing a conclusion;

2) For the purpose of issuing a conclusion or an opinion, to become familiar, with the permission of the Body Conducting the Criminal Proceedings, with the relevant materials of the proceedings, to write out from them the necessary information, and to pose questions to an Accused, a victim, and witnesses for properly carrying out his obligations;

3) To participate in Actions of Proceedings insofar as they are related to the subject matter of the expert examination and are necessary for issuing a conclusion;

4) To draw the attention of the Court and the Participants in Proceedings to circumstances that are related to the subject matter of the expert examination and the formulation of the questions posed to the expert;

5) To become familiar with the Protocol of a Proving Action or another Action of Proceedings performed with his participation, as well as the relevant part of the Court

session Protocol, and to make comments on the completeness and accuracy of the records of his actions and the information provided by him;

6) In case of being engaged by the Body Conducting the Criminal Proceedings, to receive compensation of the costs incurred during the proceedings;

7) When supporting the performance of Proving Actions or other Actions of Proceedings, to become familiar with the materials of the proceedings and the pose questions to the attendees with the permission of the person performing the respective Action;

8) When supporting the performance of Proving Actions or other Actions of Proceedings, to draw the attention of the attendees to circumstances that pertain to his professional competence;

9) When supporting the performance of Proving Actions or other Actions of Proceedings, to make statements concerning the finding, documenting, and taking of objects and documents, as well as the concerning the application of technical means; and

10) To exercise other rights reserved for him by this Code.

2. An expert shall be obliged:

1) To present documents confirming his professionalism to the Body Conducting the Criminal Proceedings and to the person that invited him;

2) To issue a substantiated and impartial conclusion or opinion regarding the questions posed to him, and to give Testimony;

3) To refrain from answering the questions posed, if they are beyond the scope of his special knowledge or skills, or if the presented materials are insufficient for answering such questions;

4) To issue a conclusion or opinion on not only the questions posed, but also circumstances that are within the scope of his authority and were revealed during the performance of the review;

5) Upon the demand of the body or person that engaged him, to present an estimate of the review costs and a report on costs actually incurred;

6) To appear when invited by the Body Conducting the Criminal Proceedings;

7) Upon the demand of the Body Conducting the Criminal Proceedings or the Parties, to communicate, during the Court session, information on his professionalism and his relationship with the Persons Engaged in the Proceedings;

8) When participating in a Proving Action or another Action of Proceedings, not to leave the place of performance of such Action without the permission of the

person performing it, and not to leave the courtroom without the permission of the presiding Judge; and

9) To abide by the Instructions of the Body Conducting the Criminal Proceedings and the rules of order in the Court session.

Article 61. A Translator; Rights and Obligations

1. A translator is a person disinterested in the subject matter of the proceedings, who is invited by the Body Conducting the Criminal Proceedings to perform translation. A person capable of understanding numb sign language and communicating with a deaf person by signs is also a translator.

2. A translator shall be fluent in the language of the proceedings and the language from which translation is performed.

3. Another Participant in the Proceedings may not be a translator.

4. A translator shall have the right:

1) To ask questions of the persons present during the translation for purpose of precise translation;

2) To become familiar with the Protocol of an investigative action or another Action of the Proceedings performed with his participation, as well as the relevant part of the Court session Protocol, and to make comments on the completeness and accuracy of the record of the translation;

3) To receive compensation of costs incurred during the proceedings; and

4) To exercise other rights reserved for him by this Code.

5. A translator shall be obliged:

1) To appear when invited by the Body Conducting the Criminal Proceedings for performing translation;

2) To present documents confirming his qualification to the Body Conducting the Criminal Proceedings;

3) Upon the demand of the Court or the Parties, to communicate, during the Court session, information on his professional experience and his relationship with the Persons Engaged in the Proceedings;

4) Throughout the time period needed for ensuring the translation, to be present at the place of performing the Proving Action or other Action of Proceedings, or in the courtroom, and not to leave such place without the permission of the person performing the relevant Action or the courtroom without the permission of the presiding Judge;

- 5) To translate fully, correctly, and in a timely manner;
- 6) To endorse with his signature the completeness and accuracy of the recording of the translation in the Protocol of the Proving Action or other Action of Proceedings performed with his participation, as well as the accuracy of the translation in the documents delivered to the Public and Private Participants in the Proceedings;
- 7) To abide by the instructions of the Body Conducting the Criminal Proceedings, unless they concern the contents of the translation; and
- 8) To abide by the rules of order in the Court session.

Article 62. A Procedure Observer; Rights and Obligations

1. A procedure observer is an adult and legally capable citizen of the Republic of Armenia, who has no interest in the subject matter of the proceedings and, by invitation of the Body Conducting the Criminal Proceedings, voluntarily participates in the performance of a Proving Action for confirming the fact of performing it, its contents, process, and results. A procedure observer must be capable of completely and correctly perceiving actions performed in his presence.

2. A procedure observer shall have the right:

- 1) To observe the whole process of the respective Proving Action;
- 2) To become familiar with the Protocol of the respective Proving Action;
- 3) During the performance of the Proving Action and while becoming familiar with the Protocol, to make comments and to demand that circumstances pointed out by him be recorded in the respective Protocol;
- 4) To receive compensation of costs incurred during the proceedings; and
- 5) To exercise other rights reserved for him by this Code.

3. A procedure observer shall be obliged:

- 1) Upon the demand of the Body Conducting the Criminal Proceedings and the person performing a Proving Action, to provide information on his relationship with the respective Persons Engaged in the Proceedings;
- 2) To participate in the performance of the respective Proving Action from the beginning to the end;
- 3) To abide by the Instructions of the person performing the Proving Action;
- 4) Not to leave the place of performance of the respective Proving Action without the permission of the person performing it; and
- 5) To sign the Protocol of the respective Proving Action.

Article 63. A Court Session Secretary; Rights and Obligations

1. A Court session secretary is a judicial servant disinterested in the subject matter of the proceedings, who shall compile the Court session Protocol.

2. A Court session secretary shall have the right:

1) To check the identity of the Court session participants prior to opening the Court session; and

2) To ask questions of the Court session participants for the purpose of ensuring the completeness and accuracy of the circumstances subject to documenting in the Protocol.

3. A Court session secretary shall be obliged:

1) To determine the presence of persons invited to the Court session prior to opening the Court session;

2) Upon the demand of the Court or a party, to provide information about his relationship with the respective Persons Engaged in the Proceedings;

3) Fully and correctly To note down in the Protocol the actions and decisions of the Court, as well as the Petitions initiated, Recusals expressed, statements and objections made, and Testimony and Explanations given during the Court session, and other circumstances that need to be reflected in the Court session Protocol;

4) To prepare the Court session Protocol in the time period stipulated by this Code; and

5) To abide by the Instructions of the presiding Judge and the rules of order in the Court session.

4. A Court session secretary shall be responsible for the completeness and accuracy of the Court session Protocol. When compiling the Protocol, the Court session secretary shall not be bound by anyone's Instructions related to the content recorded in the Protocol.

CHAPTER 8. CIRCUMSTANCES PRECLUDING PARTICIPATION IN THE PROCEEDINGS

Article 64. Self-Recusal, Recusal, and Dismissal from the Proceedings

1. Self-Recusal, Recusal, and dismissal from the proceedings shall be based on the circumstances stipulated by this Chapter, which preclude the participation of the relevant persons in the Criminal Proceedings.

2. Persons Engaged in the Proceedings, which have information about circumstances precluding their participation in the Criminal Proceedings shall be obliged to communicate them to the concerned Participants in the Proceedings and to the Body Conducting the Criminal Proceedings, and when they believe that it is impossible to conduct the proceedings normally with their participation, to express Self-Recusal or to file Petition on dismissing them from the proceedings.

3. A Private Participant in the Proceedings has the right to express Recusal to a Public Participant in the Proceedings at any time. Recusal of a Judge may be expressed only before the start of the principal hearing, unless the person expressing Recusal proves that the basis of the Recusal became known to him after the start of the principal hearing and could not be known prior to such time.

4. A Petition on Recusal or Self-Recusal or on dismissing from the proceedings must be reasoned. A Petition on Recusal of the same person based on the same ground may be expressed only once.

Article 65. Solution of the Issue of Self-Recusal, Recusal, or Dismissal from Participation in the Proceedings

1. Within the limits of its authority, the Body Conducting the Criminal Proceedings shall solve a Self-Recusal, a Recusal, or a Petition to dismiss from participation in the proceedings. The respective person may be dismissed from participation in the proceedings also at the initiative of the Body Conducting the Criminal Proceedings.

2. A decision shall be rendered concerning a Self-Recusal, a Recusal, or dismissal from participation in the proceedings, a copy of which shall be sent to the participants of such proceedings.

3. A Judge who expresses Self-Recusal shall be obliged to disclose to the Parties the grounds of such Self-Recusal, which shall be recorded ad verbum. If a Judge who has expressed Self-Recusal believes that he can be impartial during the proceedings, then he shall have the right to suggest to the Parties that they discuss, in his absence, the possibility of disregarding the Self-Recusal. If the Parties agree, in the absence of the Judge, that they will disregard the Judge's Self-Recusal, then the Judge shall continue the Court Proceedings after such decision is documented.

4. The Recusal expressed in relation to a Judge shall be solved by the Judge in question. If the Recusal is presented to several Judges conducting the proceedings

collectively or to the whole bench of the Court, then each Judge shall solve the issue of his Recusal.

5. Recusal expressed in respect of a Prosecutor during the Pre-Trial Proceedings shall be solved by a higher-ranking Prosecutor; in the Court Proceedings, it shall be solved by the respective Court.

6. Recusal expressed concerning an Investigator, the Head of an Investigative Body, an Inquiry Officer, or the Head of an Inquiry Body shall be solved by the supervising Prosecutor.

7. The Body Conducting the Criminal Proceedings shall solve the issue of dismissing from participation in the proceedings a Defender, the Authorized Representative of a Victim or Property Respondent, the attorney of a witness, or a Lawful Representative of an Accused, a Victim, a Property Respondent, or a witness.

8. The Body Conducting the Criminal Proceedings shall solve the Recusal expressed concerning an expert or a translator.

9. Recusal expressed concerning a procedure observer shall be solved by the person performing the Proving Action. Recusals expressed concerning a Court session secretary shall be solved by the Court.

10. If Recusals are expressed concurrently in respect of several persons, the first to be solved shall be the Recusal expressed in respect of the person who has the power to solve the Recusal of the others.

11. When the concurrent participation of several persons in the proceedings is precluded due to family ties or other relations of personal dependency, the person that acquired the status of a Person Engaged in the Proceedings later than the others shall be dismissed from the proceedings, save for a Lawful Representative.

Article 66. Circumstances Precluding the Participation of a Judge in the Proceedings

1. A Judge may not participate in the proceedings if:
 - 1) He is prejudiced towards any Person Engaged in the Proceedings;
 - 2) He has in his personal capacity been an eyewitness to facts examined in the proceedings;
 - 3) He or she or his or her spouse or a person related to them by up to third-degree kinship has, is, or will reasonably be (he or she has reasons to suspect that such person will be) a Person Engaged in the Proceedings;

4) He or she or his or her spouse or a person related to them by up to third-degree kinship has an economic interest related to the substance of the proceedings or to one of the Parties; or

5) There are other circumstances that could cast reasonable doubt on his impartiality in relation to the proceedings in question.

2. A Judge who took part in the Pre-Trial Proceedings or in proceedings in the first instance or appellate Courts may not subsequently participate in such proceedings. The fact that a Judge conducted the preliminary hearings shall not be a circumstance precluding his subsequent participation in the respective proceedings. The participation of a cassation Court Judge in the proceedings shall not preclude his subsequent participation in the same proceedings in the cassation Court.

3. A Judge shall not be obliged to express Self-Recusal or to accept a Recusal, if another body of justice cannot be created for rendering a Judicial Act.

Article 67. Circumstances Precluding the Participation of Public Participants in the Proceedings

1. A Public Participant in the Proceedings may not participate in the Criminal Proceedings if:

1) Any of the circumstances envisaged by Paragraph 1 of Article 66 of this Code is present; or

2) He is a personal relative of or has other relations of personal dependency with the Judge conducting the respective proceedings.

2. A Prosecutor's participation in the Pre-Trial Proceedings and his defense of the Accusation in Court shall not be circumstances precluding such Prosecutor's subsequent participation in the respective proceedings as a Prosecutor.

3. Earlier participation in the respective proceedings as an Investigator, a Head of an Investigative Body, an Inquiry Officer, or a Head of an Inquiry Body is not a circumstance precluding one's subsequent participation in the same proceedings as a Public Participant in the Proceedings.

Article 68. Circumstances Precluding the Participation of an Attorney in the Proceedings

1. A Defender or a Victim's or Property Respondent's Authorized Representative may not participate in the proceedings if:

1) He participated in the same proceedings as a Judge, a Public or Private Participant in the Proceedings, or a Person Supporting the Proceedings, save for cases of acting as an attorney for a witness;

2) He is a personal relative of or has other relations of personal dependency with an official who participated or, at the time of engaging the Defender or Authorized Representative, currently participates, in the proceedings;

3) In connection with the same proceedings, he is or was providing legal assistance to a person whose interests conflict with the interests of the person assisted by him, or he is a personal relative of or has other relations of personal dependency with such person; or

4) According to a law or Judicial Act, he may not be an attorney.

2. The Defender of the Accused may not represent other persons during the same proceedings, save for the cases envisaged by this Code.

3. The restrictions envisaged by Paragraph 1 of this Article shall also apply to the attorney of a witness, save for cases of representing more than one Victims or witnesses.

Article 69. Circumstances Precluding the Participation of a Lawful Representative in the Proceedings

The Lawful Representative of an Accused, a Victim, or a witness who is a minor or is legally incapable, as well as the Lawful Representative of a legal entity that is the Victim or Property Respondent may not participate in the proceedings if:

1) He is a personal relative of or has other relations of personal dependency with a Judge or a Public or Private Participant in the Proceedings who participated in the proceedings in the past or participates therein at the time of engaging the Lawful Representative;

2) He participated in the proceedings as a Judge or a Public or Private Participant in the Proceedings or a Person Supporting the Proceedings, save for cases of acting as a witness;

3) His conduct obviously harms the interests of the person represented by him; or

4) According to a law or Judicial Act, he may not be a Lawful Representative.

Article 70. Recusal of a Procedure Observer

1. A procedure observer may not participate in the proceedings, if any of the circumstances envisaged by Paragraph 1 of Article 66 of this Code is present, or if he has no right under law to be a procedure observer.

2. A procedure observer may not participate in the proceedings, if he has a relationship of personal or office dependency with the Body Conducting the Criminal Proceedings.

3. Earlier participation of a procedure observer in a Proving Action is not a circumstance precluding his participation in another Proving Action in the same proceedings.

Article 71. Recusal of an Expert, Translator, or Court Session Secretary

1. An expert, a translator, or a Court session secretary may not participate in the proceedings if:

1) Any of the circumstances envisaged by Paragraph 1 of Article 66 of this Code is present; or

2) According to a law or Judicial Act, he may not be an expert, a translator, or a Court session secretary;

3) He is a personal relative of or has other relations of personal or office dependency with a Public or Private Participant in the Proceedings; or

4) There are circumstances casting doubt his professional competence or impartiality.

2. A person's earlier participation in the proceedings as an expert, translator or Court session secretary is not a circumstance precluding his subsequent participation in the same proceedings.

Article 72. Dismissal from Participation in the Proceedings when a Valid Reason Exists

An attorney, a Lawful Representative, a Court session secretary, a procedure observer, or a translator, whose participation in the proceedings is not precluded by any ground envisaged by this Code, may file Petition to be dismissed from participation in the proceedings, if a valid reason excusing such participation exists.

CHAPTER 9. SPECIAL PROTECTION OF PERSONS ENGAGED IN THE
CRIMINAL PROCEEDINGS

Article 73. Ground and Procedure of Applying a Means of Special Protection

1. A means of special protection shall be applied in relation to a Person Engaged in the Criminal Proceedings or to his family member of other Close Person (for purposes of this Chapter, hereinafter, "Protected Person"), if there is a real danger connected with the conduct of the proceedings, which threatens their life, health, or legitimate interests.

2. When there is a need to apply a means of special protection, the Body Conducting the Criminal Proceedings shall, based on the written application of the relevant person or by its initiative, render a decision on applying a means of special protection, the execution of which shall be immediately assigned to the authorized state body.

3. A written request to apply a means of special protection in respect of a person who is arrested, detained, or serving an imprisonment sentence may be filed with the Body Conducting the Criminal Proceedings by the head of the administration of the respective institution based on either his initiative or an application by such person.

4. A person's application to impose a means of special protection shall be reviewed by the Body Conducting the Criminal Proceedings immediately, but not later than within 24 hours of receiving it. The applicant shall be immediately notified of the decision made, and a copy of the respective decision shall be sent to him.

5. In case of refusing to apply a means of special protection, the person who filed the application shall have the right to appeal against the respective decision in accordance with the procedure envisaged by this Code.

6. The rendering of the decision envisaged by Paragraph 5 of this Article shall not prohibit the same person from filing a new application on applying such a means, if new circumstances confirming the necessity of applying a means of special protection have emerged.

Article 74. Special Protection Means

1. The following are the special protection means that may be applied during the proceedings:

- 1) Limitation of approaching or communicating with the Protected Person;

- 2) Classification of the personal identification data of the Protected Person;
- 3) Surveillance of the Protected Person, his House, and property;
- 4) Provision of personal protection means to the Protected Person;
- 5) Transferring the Protected Person to another place of residence;
- 6) Replacement of the personal identification documents or changing the appearance of the Protected Person;

- 7) Changing the place of work, service, or education of the Protected Person;
- 8) Removal from the courtroom or conducting a Court session in camera; and
- 9) Questioning a Protected Person in Court through a special procedure.

2. The special protection means applied shall be proportionate to the nature and potential consequences of the danger threatening the Protected Person. If necessary, more than one means of special protection may be applied in respect of the same person.

3. The procedure and conditions of applying special protection means shall be defined by the legislation of the Republic of Armenia.

4. The special protection of a person subject to protection may, under the procedure and conditions envisaged by the international treaties of the Republic of Armenia, be conducted in the territory of a foreign state, as well.

Article 75. Limitation of Approaching or Communicating with the Protected Person

1. If there are facts indicative of a threat to the life or health of a Protected Person, if they are not sufficient for initiating criminal prosecution of a person, the Body Conducting the Criminal Proceedings shall officially warn him that it is impermissible to approach or communicate with the Protected Person, as well as the potential liability prescribed by law for violating such a requirement.

2. The performance of the actions envisaged by Paragraph 1 of this Article shall be confirmed by delivering official notice of the warning.

Article 76. Classification of the Personal Identification Data of the Protected Person

1. The personal identification data of a Protected Person shall be classified:

- 1) By means of restricting the information on the person in the materials of the proceedings and other documents or media containing information, as well as in the Protocols of Actions of Proceedings or Court sessions, which shall be accomplished by

the Body Conducting the Criminal Proceedings rendering a decision on replacing with pseudonyms the Protected Person's surname, name, and patronymic in the data recorded in the materials of the proceedings; or

2) By means of imposing a temporary ban on the provision of information about the Protected Person.

2. The decision of the Body Conducting the Criminal Proceedings on restricting information and the materials related to such decision shall be separated from the other materials of the proceedings and retained by the Body Conducting the Criminal Proceedings.

3. The decision separated from the main materials of the proceedings and the materials related to such decision shall be accessible only to the Body Conducting the Criminal Proceedings; Private Participants in the Proceedings may access them only with the permission of the Body Conducting the Criminal Proceedings, if it is necessary for performing the defense of an Accused or for checking any circumstance that is essential to the proceedings.

Article 77. Surveillance of the Protected Person, His House, and Property

1. The Body Conducting the Criminal Proceedings may, in cooperation with other authorized bodies:

1) Set up surveillance of the Protected Person, his House, or property;

2) Ensure the secure movement of the Protected Person, including at such time when he appears to the Body Conducting the Criminal Proceedings for participation in Proving Actions or other Actions of Proceedings or a Court session;

3) Equip the Protected Person's House with a fire alarm or other technical means for alarming; and

4) Change the telephone numbers used by the Protected Person or the government-issued license plate of a vehicle owned by the Protected Person.

2. When applying the special protection means envisaged by Paragraph 1 of this Article, the Body Conducting the Criminal Proceedings shall have the right, subject to the Protected Person's written consent and the procedure stipulated by this Code, to monitor the Protected Person's telephone communication, correspondence, mail, and other telegraph messages.

Article 78. Provision of Personal Protection Means to the Protected Person

For ensuring the personal security of the Protected Person, appropriate personal protection means shall be provided to him in accordance with the procedure stipulated by the legislation.

Article 79. Transferring the Protected Person to another Place of Residence

1. A Protected Person may, subject to his written consent, be temporarily or permanently transferred to another place of residence.
2. Transfer to another place of residence shall be performed only when the personal security of the Protected Person cannot be safeguarded using other means.

Article 80. Replacement of the Personal Identification Documents or Changing the Appearance of the Protected Person

1. Subject to the Protected Person's written consent, his identity documents may be replaced and his appearance changed.
2. The replacement of documents and the changing of appearance, including plastic surgery shall be performed only when the personal security of the Protected Person cannot be safeguarded using other means.

Article 81. Changing the Place of Work, Service, or Education of the Protected Person

1. If elimination of the danger threatening the Protected Person requires that he leaves the place of his work, service, or education, then the Body Conducting the Criminal Proceedings shall help such person, upon his request or with his consent, to move to a new place of work, service, or education.
2. The term of forced outage of the Protected Person shall be included in the calculation of the employment period record, and compensation for such term shall be paid at an amount no less than the salary paid for the former employment or service. In case the salary at the new place of work or services is lower, the difference between the salaries shall be compensated in the procedure stipulated by the legislation of the Republic of Armenia.
3. When transferring a Protected Person to another place of education, the conditions in his former place of education shall be taken into consideration.

Article 82. Removal from the Courtroom or Conducting a Court Session in Camera

To safeguard the security of a Protected Person, the Court session presiding Judge shall have the power:

- 1) To remove certain individuals from the courtroom; and
- 2) To conduct the Court session in camera.

Article 83. Questioning a Protected Person in Court through a Special Procedure

1. The questioning of a Protected Person in Court without disclosing information about his identity may be done by using a pseudonym. The questioning of a Protected Person may be performed using technical means of video communication (video conferencing).

2. If necessary, the questioning of a Protected Person may be performed in conditions that preclude recognition of such Person's identity. It may involve the use of a mask, makeup, a device changing the voice of the Protected Person, and protection means not contradicting the law.

3. The questioning of a Protected Person outside of plain view of the other Participants in the Proceedings may be performed with the help of audiovisual and other technical means (a curtain, a protective screen, or a membrane), with the participation of a limited circle of Participants in the Proceedings, with warning about maintaining confidentiality.

Article 84. Rights and Obligations of a Protected Person

1. A Protected Person shall have the right:
 - 1) To file a Petition on undertaking additional means of special protection or terminating them;
 - 2) To know about a means of special protection implemented in relation to him, its type, implementation time period, and termination;
 - 3) To appeal the Actions of Proceedings of the Body Conducting the Criminal Proceedings; and
 - 4) To waive a means of special protection.
2. A Protected Person shall be obliged:

1) To comply with the lawful demands of the Body Conducting the Criminal Proceedings and other competent bodies;

2) Immediately to notify the Body Conducting the Criminal Proceedings of any danger threatening him or each case of illegal conduct, as well as any change in his personal life and activities, which is related to his protection;

3) To refrain from performing any activity that may hinder the effective application of a means of special protection; and

4) To safeguard the property and documents delivered to him by the Body Conducting the Criminal Proceedings or another competent body for temporary use.

3. The Body Conducting the Criminal Proceedings shall, after rendering a decision on undertaking a means of special protection, immediately explain to the Protected Person his rights and obligations, as well as to support the Protected Person in exercising such rights and carrying out such obligations.

Article 85. Grounds and Procedure of Terminating a Means of Special Protection

1. The application of a means of special protection may be terminated if the Protected Person:

1) Has so requested in writing;

2) Has given false Testimony, which has been confirmed by a judgment that has entered into legal force;

3) Has failed to carry out his obligations stipulated by Paragraph 2 of Article 84 of this Code;

4) No longer needs protection because the real threat to his life, health, or legitimate interests has ceased;

5) Has died.

2. The application of a means of special protection shall be terminated by decision of the Body Conducting the Criminal Proceedings, which shall be sent to the Protected Person within a three-day period.

SECTION 3. EVIDENCE AND THE PROVING

CHAPTER 10. EVIDENCE

Article 86. Types of Evidence

1. The following is Evidence in the Criminal Proceedings:
 - 1) The Testimony of an arrested person;
 - 2) The Testimony of an Accused;
 - 3) The Testimony of a Victim;
 - 4) The Testimony of a witness;
 - 5) The conclusion of an expert;
 - 6) The opinion of an expert;
 - 7) The Testimony of an expert;
 - 8) Physical Evidence;
 - 9) Protocols of Proving Actions and other Actions of Proceedings; and
 - 10) Off-proceedings documents.
2. Data obtained as a result of operative-intelligence measures performed outside the Criminal Proceedings shall not be Evidence in the Criminal Proceedings, unless they have been documented during the Criminal Proceedings as Evidence envisaged by Paragraph 1 of this Article.

Article 87. The Testimony of an Arrested Person

The Testimony of an arrested person is written data communicated by an arrested person who does not have the status of an Accused during the questioning carried out in accordance with the procedure stipulated by this Code whilst applying this particular coercive measure on the basis of reasonable suspicion having arisen directly about having committed a crime.

Article 88. The Testimony of an Accused

The Testimony of an Accused is data communicated by him orally or in writing during the questioning carried out during the Pre-Trial Proceedings or in Court in accordance with the procedure stipulated by this Code.

Article 89. The Testimony of a Victim

The Testimony of a Victim is data communicated by him orally or in writing during the questioning carried out during the Pre-Trial Proceedings or in Court in accordance with the procedure stipulated by this Code.

Article 90. The Testimony of a Witness

The Testimony of a witness is data communicated by him orally or in writing during the questioning carried out during the Pre-Trial Proceedings or in Court in accordance with the procedure stipulated by this Code.

Article 91. The Conclusion of an Expert

The conclusion of an expert is the substantiated written inferences reached by the expert by means of examining the relevant materials of the proceedings, a corpse, or a respective Person Engaged in the Proceedings by use of special knowledge or skills in a branch of science, technology, arts, crafts, or else, about questions posed to him by the Body Conducting the Criminal Proceedings and about other questions pertaining to his authority.

Article 92. The Opinion of an Expert

The opinion of an expert is the substantiated written inferences reached by the expert by means of examining the materials provided by a Private Participant in the Proceedings or without such materials by use of special knowledge or skills in a branch of science, technology, arts, crafts, or else, about questions posed to him by a Private Participant in the Proceedings and about other questions pertaining to his authority.

Article 93. The Testimony of an Expert

1. The Testimony of an expert is data communicated by him orally or in writing during the questioning carried out during the Pre-Trial Proceedings or in Court Proceedings in accordance with the procedure stipulated by this Code.

2. The Testimony of an expert may concern:

1) The clarification or making more exact the expert's conclusion or opinion after such conclusion or opinion has been presented; or

2) The facts as perceived by him while supporting the implementation of Proving Actions and other Actions of Proceedings.

3. The Testimony of an expert may not replace the conclusion or opinion of an expert.

Article 94. Physical Evidence

1. The following shall be recognized as Physical Evidence:

1) Tools of the alleged crime or objects that have retained traces of the alleged crime;

2) Objects that were affected by the alleged criminal influence;

3) Cash, other valuables, and objects obtained through the alleged crime;

and

4) Any other objects that can serve as a means of determining factual circumstances that are of significance to the proceedings.

2. The objects mentioned in Paragraph 1 of this Article shall be inspected by the Body Conducting the Criminal Proceedings, recognized as Physical Evidence by an appropriate decision, and annexed to the materials of the proceedings.

Article 95. Protocols of Proving Actions and Other Actions of Proceedings

1. Protocols of Proving Actions are documents filed in writing as stipulated this Code, which reflect circumstances that are significant to the proceedings and were, during the performance of Proving Actions, identified directly by the Body Conducting the Criminal Proceedings or another proper entity stipulated by this Code.

2. Protocols of other Actions of Proceedings are documents filed in writing as stipulated this Code, which reflect circumstances that are significant to the proceedings and were, during the performance of other Actions of Proceedings, identified directly by the Body Conducting the Criminal Proceedings or another proper entity stipulated by this Code, as well as Protocols on accepting oral reports of crimes, Protocols of persons' surrendering themselves as guilty, and Arrest Protocols.

Article 96. Off-Proceedings Documents

1. An off-proceedings document is any record made on a paper, magnetic, electronic, or other medium in the form of words, numbers, sketches, or other signs, which contains data on facts that are significant for the Criminal Proceedings, and was created outside the scope of the particular Criminal Proceedings.

2. If necessary, the documents mentioned in Paragraph 1 of this Article shall be inspected by the Body Conducting the Criminal Proceedings, recognized as an off-proceedings document by an appropriate decision, and annexed to the materials of the proceedings.

3. If a document mentioned in Paragraph 1 of this Article has the features of Article 94 of this Code, then it shall be recognized as Physical Evidence.

Article 97. Evidence Permissibility and Restrictions of Its Use

1. Evidence obtained during the proceedings, including Evidence presented by the Private Participants in the Proceedings shall be deemed permissible unless the opposite has been established by a due process of law.

2. Data obtained with a material violation of the law, as well as data obtained as a result of Actions of Proceedings performed on the basis of such data shall be recognized as impermissible and may not be used as Evidence.

3. Data shall be deemed to have been obtained with a material violation of the law, if it was obtained:

1) By a person who does not have the right to conduct the Criminal Proceedings in question or to carry out the respective Proving Action or other Action of Proceedings;

2) With the participation of a person subject to Recusal, if he knew or should have known about the existence of circumstances precluding his participation in the proceedings;

3) In breach of the procedure stipulated by this Code, if its consequences cannot be eliminated by properly performing another Proving Action;

4) As a result of questioning the Accused in the Defender's absence, if Accused claimed in Court that such data was wrong;

5) From a person who does not have the status of an Accused, and in respect of whom de-facto criminal prosecution was conducted without properly notifying him thereof;

6) From a person who is not capable of recognizing a document or other object, or confirming its validity, or explaining the circumstances of its emergence or obtainment;

7) From an unknown source; or

8) As a result of applying methods contravening modern science.

4. When obtaining Evidence, breaches that involved infringement of the constitutional rights and freedoms of the person and citizen, or violation of the principles of Criminal Proceedings, shall also be deemed material violations.

5. Data obtained in the procedure stipulated by law may not be used as Evidence, if there is reasonable suspicion that they have been replaced or their features have been altered.

6. Information obtained as a result of secret investigative actions performed in breach of the requirements prescribed by law may not be used in the proving process.

7. The results of operative-intelligence measures performed in breach of the requirements prescribed by law may not serve as a basis for performing a Proving Action.

8. Data obtained with a breach of the law by the Accusation Party may be used as Evidence by Petition of the Accused or his Defender or Lawful Representative, provided that such breach did not infringe any person's legitimate interests. Such Evidence may be used only for the benefit of the Accused in question.

9. Evidence impermissibility and the possibility of using data obtained in breach of the law in the cases stipulated by Paragraph 7 of this Article shall be confirmed by a decision of the Body Conducting the Criminal Proceedings by Petition of a party or at its initiative.

10. Evidence recognized as impermissible shall be kept in the materials of the proceedings.

CHAPTER 11. SAFEGUARDING AND DISPOSITION OF EVIDENCE

Article 98. Safeguarding Physical Evidence

1. With the exception of cases provided by this Article, Physical Evidence shall be kept with the materials of the proceedings until the issue of their custody has been solved by a Conclusive Procedural Act, which has entered into legal force, up to such time after which it may not be appealed.

2. Physical Evidence that is perishable or is produce that is difficult to keep, or if the costs of keeping them are reasonable not justified, shall be returned to their lawful possessor by a decision. If return to the lawful possessor is impossible, the Body Conducting the Criminal Proceedings shall by decision deliver them for sale in

accordance with the procedure stipulated by the legislation of the Republic of Armenia. The proceeds of such sale shall be transferred to a deposit account of the Body Conducting the Criminal Proceedings up to the end of the time period envisaged by Paragraph 1 of this Article.

3. If the Physical Evidence envisaged by Paragraph 2 of this Article has perished or become unusable, then the Body Conducting the Criminal Proceedings shall by decision destroy them, and a Protocol thereon shall be filed.

4. If long keeping of Physical Evidence may be of danger to human life or health or the environment, then the Body Conducting the Criminal Proceedings shall by decision and in the procedure stipulated by the legislation of the Republic of Armenia transfer it for technological processing or, if it is impossible, destroy it in accordance with the procedure stipulated by the legislation of the Republic of Armenia. A Protocol shall be filed on the technological processing or destruction of Physical Evidence.

5. Physical Evidence that due to its large volume or quantity or other reasons may not be kept together with the materials of the proceedings, or the costs of keeping it are reasonably not justified, then such Evidence shall, by decision of the Body Conducting the Criminal Proceedings:

1) Be returned to the lawful possessor, provided that it will not undermine the proper proving;

2) Be photographed or videotaped and, if possible, sealed and kept at a place defined by the decision, and a document on the whereabouts of such Physical Evidence shall be annexed to the materials of the proceedings; or

3) Be transferred for sale in the procedure stipulated by the legislation of the Republic of Armenia, in which case the proceeds of such sale shall be transferred to a deposit account of the Body Conducting the Criminal Proceedings up to the end of the time period envisaged by Paragraph 1 of this Article.

6. Cash, securities, and other valuables recognized as Physical Evidence shall, by decision of the Body Conducting the Criminal Proceedings:

1) Be returned to the lawful possessor, provided that it will not undermine the proper proving;

2) Be transferred to a deposit account of the Body Conducting the Criminal Proceedings or transferred to a bank or another credit organization for keeping, unless the individual features of the banknotes are significant for proving; or

3) Kept together with the materials of the proceedings, unless the individual features of the banknotes are significant for proving.

7. If it is impossible to keep the Physical Evidence provided by this Article together with the materials of the proceedings, a sample of such Physical Evidence shall be annexed to the materials of the proceedings if possible.

8. If a law dispute over Physical Evidence annexed to the materials of the proceedings is to be examined in civil procedure, such object shall be kept with the Criminal Case File until the execution of a Judicial Act in a civil case that has entered into legal force.

Article 99. Safeguarding Documents

1. A document shall be kept with the materials of the proceedings during the whole term of keeping them.

2. If a lawful possessor needs a document annexed to the materials of the proceedings for purposes of current records or reporting or other legitimate purposes, then the Body Conducting the Criminal Proceedings shall temporarily provide such document to him or allow making a copy thereof.

3. Six months after the date of entry into legal force of a Conclusive Procedural Act, the originals of the documents present in the Criminal Case File shall, upon the request of interested persons, be delivered to them.

Article 100. Disposition of Non-Documentary Physical Evidence

1. Physical Evidence that is not a document shall be disposed according to the following rules:

1) The tools of a crime committed with intention, which are owned by the Accused, shall be confiscated or delivered to the competent institution or destroyed, while the tools of a negligent crime shall be returned to the owner;

2) Objects removed from circulation shall be delivered to the competent institution or destroyed;

3) Objects that are of no value shall be destroyed or, upon the Petition of an interested person, given to such person;

4) Cash and other property gained illicitly, as well as proceeds thereof shall be returned to the bona-fide owner or, if they do not have a bona-fide owner or their owner is unknown, then confiscated or forfeited for the benefit of the state.

5) Other objects shall be delivered to their owner or, if the owner is unknown, delivered to the competent institution.

2. In proceedings concerning particularly grave crimes and crimes against life, the Physical Evidence shall be subject to destruction.

CHAPTER 12. THE PROVING

Article 101. The Proving

The proving is the collection, checking, and assessing of Evidence for the purpose of confirming or refuting the factual circumstances subject to proving under this Code and other circumstances that are significant to the proceedings.

Article 102. Factual Circumstances Subject to Proving

1. During the Criminal Proceedings, the following shall be subject to proving:
 - 1) The incident and the circumstances (time, place, mode, and the like);
 - 2) The relationship of the Accused to the incident;
 - 3) The features of the alleged crime that are stipulated by the criminal law;
 - 4) The person's guilt in committing the alleged act;
 - 5) The circumstances mitigating or aggravating the liability stipulated by the criminal law;
 - 6) Circumstances characterizing the Accused as a person;
 - 7) Damage inflicted by the alleged crime;
 - 8) Circumstances that allow exempting the person of criminal liability and of the sentence; and
 - 9) Circumstances with which the person substantiates his pecuniary claims during the proceedings.
2. A different scope of circumstances subject to proving may be defined for certain types of proceedings stipulated by this Code.

Article 103. The Collection of Evidence

Evidence shall be collected during the Criminal Proceedings by means of carrying out the Proving Actions and other Actions of Proceedings stipulated by this Code.

Article 104. Checking the Evidence

Evidence collected during the Criminal Proceedings shall be properly checked by means of analyzing the form and content of the obtained Evidence, comparing it with other Evidence, collecting new Evidence, and checking the sources of Evidence.

Article 105. Assessment of Evidence

1. Each piece of Evidence shall be assessed in terms of relevance, permissibility, and credibility, and the combination of all the Evidence shall be assessed in terms of sufficiency for rendering a substantiated Conclusive Procedural Act.

2. The Investigator, Prosecutor, and Judge shall, governed by the criminal procedure legislation, including the relevant rules concerning the proving criteria, assess the Evidence by their inner conviction based on the proper examination and analysis thereof.

3. No Evidence shall have the force of Evidence that is credible *a priori*. The Judge, the Investigator, and the Prosecutor shall not treat Evidence in a prejudiced manner and shall not treat some of them as more or less significant than the others, until they have been assessed in the framework of a due process of law.

Article 106. Legal Presumption of Facts

1. The following shall be deemed proven unless the opposite is proven during the Criminal Proceedings:

- 1) Common-knowledge facts;
- 2) The truthfulness of the universally-recognized methods of modern science, technology, arts, crafts, or other sectors;
- 3) The fact that the person knows or should have known in respect of his professional or official duties stipulated by normative acts; and
- 4) A fact that the Accused knows or should have known as a circumstance of his exclusive awareness.

2. If a Participant in the Proceedings challenges the credibility of facts envisaged by Paragraph 1 of this Article, it shall bear the duty of proving the opposite.

Article 107. Circumstances Confirmed by Certain Evidence

In Criminal Proceedings, the following circumstances may be confirmed only by means of receiving and examining in advance the following Evidence:

- 1) The cause of death or the nature of gravity of damage inflicted upon health: by a conclusion of a forensic medical expert;
- 2) The inability of a person, due to a mental illness, a temporary pathological mental disorder, another pathological state, or mental deficiency, to comprehend the nature, significance, and harm of his actions (inaction) at the time of the incident, or to manage them: by a conclusion of a forensic psychiatric expert;
- 3) The inability of a witness or the Victim to correctly perceive, memorize, and reproduce circumstances that are significant to the proceedings: by a conclusion of a forensic psychiatric or forensic psychological expert;
- 4) In case of relevance to the proceedings, the fact that the victim or the Accused has reached a certain age: by a document confirming the age or, in its absence, by a conclusion of a forensic medical or forensic psychological expert; and
- 5) The former conviction of the Accused and the imposition of a certain sentence upon him: by a copy of the relevant judgment or, in case of its absence, by an appropriate statement issued by the competent state body.

SECTION 4. COERCIVE MEASURES

CHAPTER 13. ARREST

Article 108. Types of Arrest and Calculation of the Time Period

1. Arrest may be applied:
 - 1) In case of the existence of reasonable suspicion that has arisen directly about having committed a crime;
 - 2) For taking before the Court the Accused who is at large;
 - 3) In relation to the Accused who has violated the conditions of the restraint measure; or
 - 4) To secure the performance of the procedural duties stipulated by this Code by Private Participants in the Proceedings (with the exception of the Defender and the Authorized Representative), as well as an expert, a translator, or a witness ("Short-Term Arrest").
2. A person shall be deemed arrested from the moment he is deprived of liberty de facto. The Arrest time period stipulated by this Code shall be calculated from the same moment on.
3. Persons arrested on the basis of the ground stipulated by sub-paragraph 1 of Paragraph 1 of this Article shall be held in places for holding arrested persons. The procedure and terms of holding arrested persons shall be stipulated by the legislation of the Republic of Armenia.
4. The grounds and procedure of applying the Arrest type envisaged by sub-paragraph 4 of Paragraph 1 of this Article shall be defined by Article 145 of this Code.

Article 109. Arrest in Case of the Existence of Reasonable Suspicion that has Arisen Directly about Having Committed a Crime

1. A person may be arrested in case of the existence of reasonable suspicion that has arisen directly about having committed a crime if:
 - 1) He was caught during or immediately after committing the alleged crime;
 - 2) An eyewitness directly points at such person as the perpetrator of an act prescribed by the criminal law;
 - 3) Obvious traces showing his relationship to an act prescribed by the criminal law have been found on his person, his clothes, or other objects used by him, or in his possession or in his House or vehicle; or

4) There are other grounds confirming his relationship to the commission of the crime and he has tried to hide from the Incident Scene or from the Body Conducting the Criminal Proceedings or he does not have a place of permanent residence or his identity has not been established.

2. Immediately after bringing before the Inquiry Body or before the body that has the power to conduct the proceedings the person arrested on a basis stipulated by Paragraph 1 of this Article, the person who carried out the Arrest shall file a Protocol on arresting the person.

3. The Protocol shall specify

1) The arrested person's name, surname, patronymic, birth day, month, and year, registration and/or actual residence address;

2) The day, hour, minute, place, conditions, reasons, and grounds of *de-facto* deprivation of liberty of the person,

3) The name, surname, position, and rank of the official that carried out the Arrest,

4) The name and description of objects and/or documents (if any) taken from the person as a result of a search of the person performed at the time of his *de-facto* deprivation of liberty or after bringing the person before the competent body,

5) The injuries (if any) visible on the body or on the clothes of the arrested person, and his noticeable physical and mental state;

6) The statements made by the arrested person, and

7) The day, hour, and minute of bringing the arrested person to the competent body and of filing the Protocol.

4. The Protocol shall be signed by the person who carried out the Arrest and by the arrested person. In case the arrested person refuses to sign, such refusal and the reasons for such refusal shall be documented in the Protocol. A copy of the Protocol shall be delivered to the arrested person against his signature.

5. No later than within six hours of a person's *de-facto* deprivation of liberty in accordance with the procedure stipulated by this Article, a decision on arresting or releasing him shall be delivered to the arrested person. The Arrest decision shall mention the year, month, day, hour, minute, and place of preparing it, information on the arrested person, the actual circumstances of the act allegedly committed by the person, the Arrest basis, and the article of the Republic of Armenia Criminal Code, which prescribes the crime, which the arrested person is suspected of committing.

6. The Arrest Protocol, as well as a list of the rights and obligations of the Accused stipulated by this Code shall be annexed to the Arrest decision as integral parts thereof. Copies of the Arrest decision and the Arrest Protocol shall be sent immediately to the supervising Prosecutor.

7. Arrest carried out on in accordance with the procedure stipulated by this Article may not last longer than 72 hours. However, the Accusation must be filed against the arrested person, and the Accused shall be taken to Court for solving the issue of applying a restraint measure in respect of him, no later than within 60 hours of his arrest.

8. If the arrested person is not detained by Court decision within 72 hours of the Arrest, he shall be released immediately. When examining the issue of detention, the Court shall also check the lawfulness of the Arrest.

Article 110. Rights and Obligations of a Person Arrested on the Basis of Reasonable Suspicion that has Arisen Directly about Having Committed a Crime; Conditions and Safeguards of Their Exercise and Performance

1. A person arrested on the basis of the ground envisaged by sub-paragraph 1 of Paragraph 1 of Article 108 of this Code shall acquire all the relevant rights and obligations of an Accused stipulated by this Code from the moment of receiving the Arrest decision or, if such decision was not delivered during the time period prescribed by law, then after six hours have passed since the moment of his *de-facto* deprivation of liberty.

2. Prior to acquiring the relevant rights of an Accused, an arrested person shall have the following minimum rights:

1) To be informed about the minimum rights and obligations stipulated by this Article orally from the moment of becoming *de facto* deprived of liberty and in writing at the time of entry into the administrative building of the Inquiry Body or of a body that has the power to conduct the proceedings;

2) To know the reason for depriving him of liberty;

3) To remain silent;

4) To inform a person of his choosing about his whereabouts;

5) To invite an attorney; and

6) To undergo a medical examination if he so demands.

3. The rights prescribed by sub-paragraphs 4-6 of Paragraph 2 of this Article shall arise from the moment of entry into the administrative building of the Inquiry Body or of a body that has the power to conduct the proceedings.

4. Prior to acquiring the relevant responsibilities of an Accused, an arrested person shall have the following responsibilities:

1) To abide by the Instructions of the person performing the Arrest, the Inquiry Body, and the Body Conducting the Criminal Proceedings;

2) To undergo a personal search;

3) To undergo a medical examination and fingerprinting, to be photographed, and to provide samples envisaged by this Code for expert examination.

5. To ensure the exercise of the rights envisaged by Paragraph 2 of this Article:

1) The person performing the Arrest shall be obliged, immediately after the Arrest, to explain orally to the arrested person his minimum rights, responsibilities, and the reason for depriving him of his liberty;

2) The Inquiry Body or the Body Conducting the Criminal Proceedings shall be obliged, after bringing the arrested person to the administrative building of the Inquiry Body or of a body that has the power to conduct the proceedings, to provide to the arrested person the list of his minimum rights and obligations, to safeguard the possibility of the arrested person to make phone calls for the purpose of informing about his whereabouts and inviting an attorney, and, if demanded by the arrested person, to safeguard his medical examination and not to obstruct the attorney's meeting with the arrested person.

6. The exercise of the minimum right envisaged by sub-paragraph 4 of Paragraph 2 of this Article may be postponed by a maximum period of six hours, if there are justified reasons to believe that the immediate exercise of such right may obstruct the prevention or deterrence of a crime or lead to destruction or damaging of the Evidence.

7. Immediate written notice shall be given to the arrested person about the postponement of the exercise of the minimum right envisaged by sub-paragraph 4 of Paragraph 2 of this Article, and a separate Protocol shall be prepared, stating the reasons for postponing the exercise of such right.

Article 111. Arrest for Taking before the Court the Accused who is at Large

1. If it is necessary to choose detention as a restraint measure in relation to an Accused who is at large, the Investigator shall have the power to render a decision on arresting the Accused. The decision shall contain the year, month, and day of preparing it, as well as information about the Accused, the Arrest ground and reasons, and the Inquiry Body that is instructed to carry out the Arrest.

2. Prior to arresting the Accused, the Inquiry Officer shall deliver a copy of the Arrest decision to him against his signature. Immediately after *de-facto* deprivation of liberty, the Accused shall be taken before an Investigator. The fact of taking the Accused before an Investigator shall be documented in a Protocol on arresting the person. The Protocol shall specify the name, surname, and patronymic of the Accused, as well as the day, hour, minute, place, conditions, and grounds of depriving him of liberty *de facto*, the name, surname, position, and rank of the Inquiry Officer that carried out the Arrest, the statements made by the arrested accused person, and the day, hour, and minute of bringing the arrested Accused before an Investigator and filing a Protocol.

3. Arrest carried out on the basis of a ground stipulated by Paragraph 1 of this Article may not last for more than 24 hours. The Accused who is arrested on the basis of such a ground shall be taken to Court no later than within 12 hours of the Arrest. Otherwise, the person must be released.

4. If the Accused who is arrested on the basis of a ground stipulated by Paragraph 1 of this Article is not detained by Court decision within 24 hours of the Arrest, he shall be released immediately. When examining the issue of detention, the Court shall also check the lawfulness of the Arrest.

Article 112. Arrest of an Accused who Violated the Conditions of the Restraint Measure

1. If an Accused violates the conditions of a restraint measure applied in relation to him, the Investigator has the right to take a decision on arresting him and, at the same time, to file Petition to Court on detaining the Accused. The decision shall specify the year, month, and day of preparing it, information on the Accused, the Arrest grounds and reasons, and the Inquiry Body that is instructed to carry out the Arrest.

2. The accused may be arrested on the basis of a ground stipulated by this Article only if the provisions of this Code allow applying detention in relation to him as a restraint measure.

3. Prior to arresting the Accused, the Inquiry Officer shall deliver a copy of the Arrest decision to him against his signature. Immediately after *de-facto* deprivation of liberty, the Accused shall be taken before an Investigator. The fact of taking the Accused before an Investigator shall be documented in a Protocol on arresting the person. The Protocol shall specify the Accused person's name, surname, and patronymic, as well as the day, hour, minute, place, conditions, and grounds of depriving him of liberty *de facto*, the name, surname, position, and rank of the Inquiry Officer that carried out the Arrest, the statements made by the arrested Accused, and the day, hour, and minute of bringing the arrested Accused before the Investigator and filing the Protocol.

4. Arrest carried out on the basis of a ground envisaged by Paragraph 1 of this Article may not last for more than 24 hours. The Accused who is arrested on the basis of such a ground shall be taken to Court no later than within 12 hours of the Arrest. Otherwise, the person must be released.

5. If the Accused who is arrested on the basis of a ground stipulated by Paragraph 1 of this Article is not detained by Court decision within 24 hours of the Arrest, he shall be released immediately. When examining the issue of detention, the Court shall also check the lawfulness of the Arrest.

Article 113. Additional Rights of Arrested Foreign Citizens and Stateless Persons

1. If an international treaty of the Republic of Armenia reserves the right of an citizen of a foreign state or a stateless person, who is arrested on the basis of a ground envisaged by sub-paragraph 1 of Paragraph 1 of Article 108 of this Code, to get in touch with or to have a meeting with an authorized representative of or a person with similar authority representing his citizenship state or permanent residence state, respectively, then the Body Conducting the Criminal Proceedings shall be obliged to safeguard the exercise of such rights.

2. In case of arresting a foreign citizen or stateless person, the Body Conducting the Criminal Proceedings shall, through diplomatic channels, within 24 hours, inform the citizenship state of the person held in custody or, if he has no citizenship, the state of his permanent residence, about the grounds and place of holding him.

3. Persons specified in this Article shall enjoy the respective safeguards also in other cases of their *de-facto* deprivation of liberty.

Article 114. Release of an Arrested Person

1. An arrested person shall be released by a decision of an Investigator or a supervising Prosecutor if:

1) The suspicion that the person has committed an act prescribed by the criminal law has not been confirmed;

2) The necessity of holding the person in custody has ceased;

3) The person was deprived of liberty with a material violation of the arrest procedure; or

4) The maximum time period stipulated by this Code for Arrest has lapsed.

2. A copy of the Investigator's or Prosecutor's decision on releasing the arrested person shall be immediately delivered to the released person. The decision shall specify the ground and time (year, month, day, minute, and hour) of releasing the person.

3. If the Court rejects a Petition on detaining the arrested Accused person, the Accused shall be immediately released by Instruction of the Court. A copy of the Court's decision shall be immediately delivered to the Accused.

4. In the case stipulated by sub-paragraph 4 of Paragraph 1 of this Article, if the person has not been released by the Investigator's or Prosecutor's decision, the arrested person shall be released by the head of the administration of the place for holding arrested persons. In such case, the head of the administration of the place for holding arrested persons shall deliver to such person a statement on releasing the arrested person, which shall specify the basis and time (year, month, day, hour, and minute) of releasing the person. A copy of such statement shall be sent to the Investigator and to the supervising Prosecutor.

5. A released person who had been arrested on the basis of the ground envisaged by sub-paragraph 1 of Paragraph 1 of Article 108 of this Code may not be arrested again on the basis of the same suspicion.

CHAPTER 14. RESTRAINT MEASURES

Article 115. Purpose and Types of Restraint Measures

1. Restraint measures may be applied by an Investigator, a supervising Prosecutor, or a Court, within the limits of their authority.

2. Restraint measure may be applied in relation to an Accused for the purpose of preventing his possible illegal conduct.

3. Restraint measures are detention and alternative restraint measures.

Article 116. Lawfulness of Applying a Restraint Measure

1. A restraint measure may not be applied unless there is reasonable suspicion that the Accused has committed the act attributed to him.

2. A restraint measure may be applied if it is necessary:

1) To prevent the escape of an Accused;

2) To prevent the commission of a crime by the Accused; or

3) To ensure the fulfillment by the Accused of obligations placed on him by law or by Court decision.

3. Justifying the circumstances mentioned in sub-paragraphs 1 to 3 of Paragraph 2 of this Article is not required:

1) In case of applying certain alternative restraint measures stipulated by this Code; or

2) In case of the initial application of detention or an alternative restraint measure upon a person accused of a grave or particularly grave crime.

4. When choosing the type of the restraint measure, all the possible circumstances ensuring or hindering proper conduct by the Accused shall be taken into consideration.

Article 117. Changing or Abolishing a Restraint Measure

1. If the conditions of lawfulness of a restraint measure have ceased during its effective term, the Body Conducting the Criminal Proceedings shall, within the limits of its authority, take a decision on changing or abolishing the restraint measure.

2. If the Accused violates the conditions of a restraint measure applied in relation to him, the Body Conducting the Criminal Proceedings shall, within the limits of its authority, take measures for the application of a more stringent restraint measure.

3. The decision to change or abolish a restraint measure shall be delivered immediately to the body or official securing the application of the restraint measure, and its copy to the person in relation to whom the restraint measure is being applied.

4. If the restraint measure applied has been abolished as a result of reviewing an appeal, then that restraint measure or a more stringent restraint measure may be applied only if a new circumstance is present.

Article 118. Detention and Its Lawfulness

1. Detention is the deprivation of liberty of the Accused by Court decision in the cases and procedure stipulated by law for a term defined by law and by such Court decision.

2. Detention may be applied only in case the application of alternative restraint measures is impossible or insufficient for preventing the illegal conduct of the Accused.

3. Detention may be applied only in case when, based on the sufficient totality of factual circumstances, the Investigator or Prosecutor have justified and the Court has confirmed with reasoning the relevant conditions of lawfulness envisaged by Article 116 of this Code. In Court Proceedings, the reasoned confirmation of such conditions by Court is sufficient for applying detention.

4. When prolonging the detention term, the due diligence exerted by the Body Conducting the Criminal Proceedings for the purpose of discovering circumstances of significance to the proceedings in question, as well as the necessity of continuing the criminal prosecution of the Accused in question must be justified in front of Court, as well.

Article 119. The Detention Term

1. A person may be held in detention so long as it is necessary to secure the normal course of the proceedings, but in any event such term shall not exceed the maximum periods of holding in detention, as prescribed by this Article.

2. During the Pre-Trial Proceedings, the initial detention term may not exceed one month. In Pre-Trial Proceedings, the term of holding the Accused in detention may be prolonged for a term not longer than two months each time, provided that the maximum periods prescribed by this Article for holding an Accused in detention during Pre-Trial Proceedings is respected.

3. The maximum period for holding the Accused in detention during Pre-Trial Proceedings is:

- 1) Two months in case of accusing of a non-grave crime;
- 2) Four months in case of accusing of a medium-gravity crime;
- 3) 10 months in case of accusing of a grave crime; and
- 4) 12 months in case of accusing of a particularly grave crime.

4. The period of holding the Accused in detention shall be calculated from the moment of his *de-facto* deprivation of liberty. The calculation of the period of detention shall also include the time during which the Accused was by Court decision in a medical institution for the performance of an expert examination or while applying medical supervision as a security measure in respect of him.

5. The calculation of the total period of holding in detention shall not include the time period during which the person was in custody in the territory of another state in relation to the transfer of proceedings or the extradition of the person.

Article 120. Release from Detention

1. The Accused shall be released from detention based on a decision of the Body Conducting the Criminal Proceedings if:

- 1) The necessity of limiting the person's liberty has ceased;
- 2) The criminal prosecution of the Accused has been terminated;
- 3) The Accused has been acquitted;
- 4) The Court has imposed upon the Accused a sentence that is not related to deprivation of liberty, confinement in a disciplinary battalion, or detention;
- 5) The detention term set by Court has lapsed and has not been prolonged;
- 6) The maximum period stipulated by this Code for holding a person in detention has lapsed; or
- 7) The alternative guarantees set by Court for securing the proper conduct of the Accused have been presented by the Accused or in his favor.

2. In the cases stipulated by sub-paragraphs 5 to 7 of Paragraph 1 of this Article, the head of the administration of a place for holding in detention also may take the decision to release a person from detention.

3. In the cases stipulated by sub-paragraphs 3 to 5 of Paragraph 1 of this Article, the Court shall release the Accused directly in the courtroom. In the cases stipulated by sub-paragraphs 5 to 7 of Paragraph 1 of this Article, the head of the administration of a place for holding in detention shall immediately release the Accused from detention.

Article 121. Re-Detaining a Person Released from Detention

1. A person released from detention may not be detained again with the same Accusation, unless new material circumstances have been discovered, which

were unknown to the Body Conducting the Criminal Proceedings at the time of releasing the Accused from detention.

2. If a person released from detention has been re-detained, then the calculation of the maximum permissible period of holding him in detention shall include the time during which he was held in detention before his release from detention.

Article 122. Alternative Restraint Measures

1. The following are the alternative restraint measures:

- 1) House arrest;
- 2) Administrative supervision;
- 3) Bail;
- 4) Prohibition of absence;
- 5) Suspension of office;
- 6) Guarantee;
- 7) Educational supervision; and
- 8) Military supervision.

2. Alternative restraint measures may be applied individually or in combination.

3. The restraint measures envisaged by sub-paragraphs 1 and 2 of Paragraph 1 of this Article may be applied only by Court.

4. During the Pre-Trial Proceedings, the alternative restraint measures envisaged by sub-paragraphs 3 to 8 of Paragraph 1 of this Article may be applied:

1) By an Investigator—prior to the delivery of the accusatory conclusion to the Prosecutor together with the Criminal Case File;

2) By a supervising Prosecutor—from the time of receiving the accusatory conclusion together with the Criminal Case File from the Investigator to the time of its delivery to Court;

3) By a Court—while solving the Petition on applying a restraint measure or prolonging the time period of a restraint measure applied.

5. An Investigator may apply alternative restraint measures envisaged by sub-paragraphs 3 to 5 of Paragraph 1 of this Article only with the consent of the supervising Prosecutor.

Article 123. House Arrest

1. House arrest is such limitation of the freedom of the Accused, during which he is obliged not to leave the place of residence specified in the Court decision.

2. The Court decision may also prohibit the Accused from:

1) Having telephone conversations, sending or receiving correspondence or mail, telegraph, or other communication, or using other means of communication;

2) Having contacts with certain persons or hosting other persons in his place of residence.

3. The Court decision to apply house arrest shall specify the concrete limitations that the Accused is subject to, as well as the competent body that is instructed to supervise compliance with such limitations.

4. Supervision of the conduct of the Accused may, by Court decision, be carried out using special electronic means. The Accused shall be obliged constantly to carry on his person the means of electronic surveillance, keep them in working condition, and respond to the surveillance signals of the competent body.

5. The provisions stipulated by this Code for detention shall apply to the procedure of applying house arrest, the time periods of house arrest, and the appeals.

6. One day of house arrest is equal to one day of detention.

Article 124. Administrative Supervision

1. Administrative supervision is the limitation of the movement and freedom of activity of the Accused, during which he is obliged to check in at the police body mentioned in the Court decision no more frequently than three times a week.

2. The Court decision may also prohibit the Accused from:

1) Changing the place of his permanent or temporary residence without the permission of the Body Conducting the Criminal Proceedings;

2) Visiting certain places mentioned in the decision;

3) Meeting certain persons; and

4) Leaving his place of residence during certain hours of the day.

3. When defining the prohibitions envisaged by Paragraph 2 of this Article, the work or education conditions and the health condition of the Accused shall be taken into account.

4. A copy of the decision to place the Accused under administrative supervision shall be sent to the competent body specified by the Court for execution purposes.

5. The competent body shall immediately record the Accused and inform the Body Conducting the Criminal Proceedings about accepting him for supervision.

6. Supervision of the conduct of the Accused may, by Court decision, be carried out using special electronic means. The Accused shall be obliged constantly to carry on his person such means of electronic surveillance, keep them in working condition, and respond to the surveillance signals of the competent body.

7. The provisions stipulated by this Code for detention shall apply to the procedure of applying administrative supervision and the related appeals.

Article 125. Bail

1. Bail is an amount of money defined by a decision of the competent body, which shall be transferred to the bank or other credit organization specified in the respective decision as a deposit for safekeeping in the form of the Armenian currency, securities, or other valuables for securing the proper conduct of the Accused. Real estate may be accepted as bail, if the decision to apply bail specifically mentions such possibility.

2. The amount of bail may not be less than 200-fold the minimal salary. When determining the amount of bail, the gravity of the crime attributed to the Accused and the property status of the Accused shall be taken into account. The pledgor shall bear the duty of proving the value of the bail.

3. Bail may be paid in by the Accused or any natural person or legal entity. If bail is paid in by another person, the Court shall explain to him the substance of the Accusation filed against the Accused, as well as the potential consequences in case the Accused engages in improper conduct.

4. The pledgor shall present a document confirming that bail has been paid in, which shall be annexed to the materials of the proceedings.

5. If the Accused has hidden from the Body Conducting the Criminal Proceedings or has left for another place without permission, has regularly failed to appear when invited by the Body Conducting the Criminal Proceedings, or has materially hindered the proceedings, then the supervising Prosecutor shall render a decision on turning the bail into revenue of the state, and shall, within a three-day period, send a copy thereof to the Accused and the person who paid in the bail, explaining to them the procedure envisaged by Articles 306 and 307 of this Code for appealing against such decision.

6. Bail shall be returned to the pledgor in all cases in which the violations stipulated by Paragraph 5 of this Article have not been proven or bail as a restraint measure is abolished or changed. The decision to return the bail shall be taken at the same time as taking the decision to abolish or change the respective restraint measure.

Article 126. Prohibition of Absence

1. If there are sufficient grounds to assume that the Accused may escape using a personal identification document, the competent body may take a decision to prohibit his absence from the Republic of Armenia. Such decision shall be accompanied with seizing the passport or such other personal identification document of the Accused, which may allow him to cross the state border. The Accused may also be prohibited from receiving a new document of the same type.

2. The Accused may not leave for another location or change his place of residence without the permission of the body that applied the restraint measure specified in this Article. The Accused is obliged to appear when called by the Investigator or the Court, and to inform them of any change of his place of residence.

3. The decision to prohibit absence from the Republic of Armenia shall be sent to the competent body that issued the respective personal identification document to the Accused.

4. An appropriate decision on abolishing the restraint measure specified in this Article shall be taken. In such case, the document seized from the Accused shall be immediately returned to him. An appropriate Protocol thereon shall be compiled, which shall be signed by the person returning the document and by the Accused.

Article 127. Suspension of Office

1. The office of an Accused who is a public servant may be suspended by decision of the competent body, if there are sufficient grounds to assume that he will, in case of remaining in office, obstruct the process of the proceedings or the compensation of the damage inflicted by the alleged crime, or will engage in criminal conduct.

2. The decision on suspension of the office of the Accused shall be sent to the head of the administration of his work place, who shall, after receiving it, be immediately obliged to execute it and to inform thereof the body or person that took the respective decision.

Article 128. Guarantee

1. A guarantee is the written undertaking of credible persons whereby they guarantee with their reputation that the Accused will conduct himself properly, appear when invited by the Body Conducting the Criminal Proceedings, and carry out other obligations.

2. A capable adult natural person may act as a guarantor, if he has applied in writing to the Body Conducting the Criminal Proceedings, requesting to become a guarantor. The number of guarantors must be no less than two.

3. The competent body shall familiarize the applicant with the substance of the Accusation filed against the Accused and explain the rights and obligations of the guarantor, and warn him of the liability stipulated by law for the guarantor in case of the Accused engaging in improper conduct. Thereafter, the applicant shall be given the possibility of confirming his request or waiving it. A Protocol shall be prepared on the performance of the aforementioned actions.

4. In case a guarantee is applied as a restraint measure, the guarantor's name and surname and other relevant personal data shall be specified in the decision of the competent body. A copy of the decision shall be immediately delivered to the guarantor.

5. Guarantors shall bear liability prescribed by law for the failure to honor their obligations.

Article 129. Educational Supervision

1. To ensure the proper conduct of an Accused who is a minor, his appearance when invited by the Body Conducting the Criminal Proceedings, and the performance by the Accused of other duties, his supervision may be assigned to the parents of such Accused minor, his adoptive parents, trustees, or the administration of closed institutions for children, where such Accused minor currently is.

2. Parents, adoptive parents, and trustees have the right to refuse to exercise educational supervision of an Accused who is a minor.

3. In case of applying educational supervision as a restraint measure in relation to a minor, the Body Conducting the Criminal Proceedings shall familiarize his parents, adoptive parents, or trustees, or the representative of the administration of the closed institution for children, with the decision made and deliver a copy of such decision to them, familiarize them with the substance of the Accusation, and explain their rights, obligations, and liability to them, about which a Protocol shall be prepared.

4. In case of failing to carry out their obligations, persons carrying out educational supervision shall bear liability stipulated by law.

Article 130. Military Supervision

1. To ensure the proper conduct of an Accused who is undertaking military service or training musters, his appearance when invited by the Body Conducting the Criminal Proceedings, and the performance by the Accused of other duties, his supervision may be assigned to the commander of a military unit or detachment or the head of a military institution.

2. In case of applying military supervision as a restraint measure in relation to the Accused, the Body Conducting the Criminal Proceedings shall familiarize a representative of the command with the respective decision and deliver a copy thereof to him, familiarize him with the substance of the Accusation, and explain his rights, obligations, and liability to him, about which a Protocol shall be prepared.

3. During supervision of an Accused, the requirements of the military statutes shall apply.

4. In case of failing to carry out their obligations, persons performing military supervision shall bear liability stipulated by law.

CHAPTER 15. SEIZURE OF PROPERTY

Article 131. Purpose and Grounds of Seizing Property

1. Seizure of property shall be applied in order to secure the possible confiscation of property, a possible property claim, and possible Court expenses.

2. Property may be seized if any of the following grounds is present:

1) The preponderance of Evidence justifies that such property directly or indirectly arose from or was obtained through the crime attributed to the Accused, or is income from the use of such property or any other gain derived from it;

2) The preponderance of Evidence justifies that such property is a tool or means used for or designated to be used for committing a crime;

3) The preponderance of Evidence justifies that such property is property designated for financing terrorism as prescribed by Article 217.1 of the Criminal Code of the Republic of Armenia, or is income from the use of such property or any other gain derived from it;

4) The preponderance of Evidence justifies that such property was smuggled across the border of the Republic of Armenia by ways of a smuggling act prescribed by Article 215 of the Criminal Code of the Republic of Armenia; or

5) There is a reasoned assumption that such property may be alienated, concealed, damaged, destroyed, or consumed.

3. In case of absence of the property envisaged by sub-paragraphs 1 to 4 of Paragraph 2 of this Article, property equivalent to it may be seized.

Article 132. Property Subject to Seizure

1. The property of any person may be seized on the basis of the grounds envisaged by sub-paragraphs 1 to 4 of Paragraph 2 and Paragraph 3 of Article 131 of this Code. The property of the Accused or of a person bearing property liability for the actions of the Accused, including property under joint ownership, regardless of the property type and who possesses it, may be seized on the basis of the ground envisaged by sub-paragraph 5 of Paragraph 2 of Article 131 of this Code.

2. When determining the share of property subject to seizure for each of the Accused, in case there are several Accused persons, or each of the persons bearing property liability for the actions of several Accused persons, the Body Conducting the Criminal Proceedings shall take into consideration the role and degree of participation in the alleged crime of each Accused person.

3. The following shall not be subject to seizure:

- 1) Property that by law may not be the subject of confiscation or forfeiture;
- and
- 2) Property recognized as Physical Evidence.

Article 133. Procedure of Seizing Property

1. During a Preliminary Investigation, property shall be seized on the basis of an Investigator's decision. Such decision and the materials supporting it shall be presented to the competent Court for approval within a three-day period. During the Court Proceedings, property shall be seized by a decision of the Court.

2. The decision shall specify the property subject to seizure, its owner and possessor, the location of the property, and the property value that is sufficient for safeguarding the purpose of the seizure.

3. In case of the *prima-facie* existence of the grounds envisaged by subparagraphs 1 to 4 of Paragraph 2 and Paragraph 3 of Article 131 of this Code, the Investigator shall seize the respective property immediately.

4. The Investigator shall deliver to the owner or possessor of the property, against his signature, the decision to seize the property and demand to surrender the property.

5. Property seizure on the basis of a Court decision shall be performed in accordance with the procedure stipulated by the Republic of Armenia Law on the Compulsory Execution of Judicial Acts.

6. If any state body or legal entity needs to render an appropriate act for the property to be seized, then the property seizure shall be performed through the respective competent body or legal entity.

7. The value of property subject to seizure shall be determined by its market price, by an expert engaged for such purpose.

8. If the decision does not specify the property subject to seizure, then the owner or property possessor present during the seizure shall have the right to choose the property that is sufficient for complying with the decision.

9. A Protocol shall be prepared on the fact of seizing the property, which shall specify the whole property that has been seized, with exact mention of the name, quantity, weight, depletion state, value, other individual features, and the statements by the persons present at the seizure, including specification of what property has been seized and what property has been left for safeguarding.

10. A copy of the Protocol shall be delivered to the owner or possessor of the seized property against his signature or, in his absence, to an adult member of his family or to a representative of the respective local self-government body. In case of seizing property owned or possess by a legal entity, a copy of the Protocol shall be delivered to its representative against his signature.

Article 134. Safeguarding of Seized Property

1. Seized property, with the exception of real estate and large objects, shall be taken away.

2. Precious metals and stones, currency, and securities shall be delivered to the Republic of Armenia Treasury for safeguarding. Armenian Drams shall be paid in to a deposit account of the Court that will have jurisdiction over the proceedings. Other

taken objects shall be sealed and kept in the body that decided to seize the property, or delivered for safeguarding to a representative of the local self-government body.

3. Large-size property that has been seized but not taken shall be sealed and left for safeguarding with the property owner or possessor or an adult member of his family. The liability stipulated by law for alienating, destroying, damaging, or consuming such property shall be explained to them, about which their signature shall be taken.

Article 135. Duration of Property Seizure

1. Property seizure shall continue until the entry into legal force of a Conclusive Procedural Act in the proceedings in question. By Petition of a victim or another interested person, the Court has the right to maintain the property seizure also after the end of the Criminal Proceedings, up to the time of enforcement of the Judicial Act.

2. During the proceedings, the property seizure shall be lifted, if such circumstances have emerged, which indicate the necessity of lifting all restrictions arising out of the property seizure.

CHAPTER 16. COERCIVE MEASURES APPLIED IN RELATION TO PERSONS WITH A MENTAL ILLNESS OR A MENTAL DISORDER

Article 136. Types of Coercive Measures Applied in Relation to Persons with a Mental Illness or a Mental Disorder

The following coercive measures may be applied in relation to persons with a mental illness or a mental disorder:

- 1) Placement in a medical institution for performing an expert examination;
- and
- 2) Security measures.

Article 137. Placement in a Medical Institution for Performing an Expert Examination

1. If there is reasonable suspicion of having a mental illness or a mental disorder, a Court may decide to place an Accused in a medical institution for performing a forensic psychological, forensic psychiatric, or forensic medical expert examination.

2. The relevant part of the rules prescribed by this Code for the application of initial detention as a restraint measure shall apply, *mutatis mutandis*, to the coercive measure of placement in a medical institution for performing an expert examination.

Article 138. Security Measures

1. The following are the security measures:
 - 1) Family supervision; and
 - 2) Medical supervision.
2. A security measure may be applied in respect of an Accused, or a person regarding whom proceedings of applying a compulsory medical measure are being conducted.

Article 139. Family Supervision

1. Family supervision is the delivery of a person with a mental illness or a mental disorder to his Relatives or guardians for the purpose of securing his proper conduct. Family supervision is applied in respect of persons that do not pose a danger to the public.

2. The competent health care body shall be notified of the application of family supervision.

3. The relevant part of the rules prescribed by this Code for the application of educational supervision as a restraint measure shall apply, *mutatis mutandis*, in relation to family supervision.

Article 140. Medical Supervision

1. Medical supervision is the keeping in a psychiatric institution of a person who poses a danger for the public.

2. The relevant part of the rules prescribed by this Code for the application of detention as a restraint measure shall apply, *mutatis mutandis*, in relation to medical supervision.

CHAPTER 17. PROCEDURAL SANCTIONS

Article 141. Types and Grounds of Imposing Procedural Sanctions

1. In case of contempt of Court or obstruction of the normal course of the proceedings by a Participant in the Proceedings or another person by means of abuse of their rights or malicious non-performance of their obligations, the Body Conducting the Criminal Proceedings shall have the right to impose a judicial sanction on such persons.

2. The following are the procedural sanctions:

- 1) Warning;
- 2) Limiting the exercise of the right;
- 3) Removal from the courtroom;
- 4) Short-Term Arrest;
- 5) Coercive presentation before the Court;
- 6) A judicial fine; and
- 7) Removal from the proceedings.

3. In case of abuse of rights, only the procedural sanction envisaged by subparagraph 2 of Paragraph 2 of this Article may be imposed.

4. The imposition of a procedural sanction must pursue the aim of ensuring the normal course of the proceedings. A sanction imposed on a person shall be proportionate with the nature and consequences of his conduct.

5. The imposition of a procedural sanction shall not hinder the imposition of other liability envisaged by law on the sanctioned person.

Article 142. Warning

1. A warning is an order to a Participant in the Proceedings or another person to demonstrate proper conduct or to comply with the Instructions of an authorized person during the performance of a certain Action of Proceedings or during a Court session.

2. In Pre-Trial Proceedings, warning shall be given in writing. In Court Proceedings, warning shall be given orally and incorporated in the Court session Protocol.

3. The failure to comply with the requirements of the warning may give rise to the imposition of another sanction envisaged by this Code. The Body Conducting the Criminal Proceedings shall duly inform the relevant person about such possibility every time warning is given.

Article 143. Limiting the Exercise of a Right

1. Limiting the exercise of a right is the setting of time or quantity conditions on the exercise of certain rights by an appropriate decision, in case if such rights are regularly abused by a Participant in the Proceedings or a witness.

2. The procedural sanction envisaged by this Article may be imposed only in case of regularly abusing the following rights:

- 1) Filing a Petition;
- 2) Expressing a Recusal;
- 3) Presenting Evidence for annexing to the materials of the proceedings and for examining;
- 4) Becoming familiar with the materials of the proceedings and copying out any information from them;
- 5) Making an opening statement, a closing speech, and a conclusive statement;
- 6) Waiving a Defender.

3. Limiting the exercise of the right may also be imposed in case several Defenders, Authorized Representatives, or Attorneys appear at an Action of Proceedings. In this case, the limitation of the exercise of the right shall be in the form of allowing not all the Defenders, Authorized Representatives, or Attorneys to participate in the particular Action of Proceedings.

4. The imposition of a procedural sanction envisaged by this Article shall not preclude the substantive exercise of the respective right.

Article 144. Removal from the Courtroom

1. In case of failing to comply with the requirements of a warning imposed during the Court session, the Court may remove from the courtroom a participant in the Court Proceedings or another person present at the Court session.

2. The Instruction to remove a person from the courtroom shall be incorporated in the Protocol of the respective Court session.

3. If it is impossible to continue the Court session in the absence of a person removed from the courtroom, the Court shall postpone the proceedings for a reasonable period.

4. In case of the first and second removal of the Accused from the courtroom, the proceedings shall be postponed. If the ground envisaged by Paragraph 1

of this Article for removing the accused from the courtroom is subsequently present, the Court shall remove the Accused from the courtroom and continue the Court session. In any event, the participation of the Accused in the Court session shall be mandatory during the publication of the Conclusive Judicial Act.

5. In case of the failure to comply immediately and voluntarily with the Instruction to remove from the courtroom, it shall be executed in a compulsory manner.

Article 145. Short-Term Arrest

1. If a Private Participant in the Proceedings (with the exception of a Defender and an Authorized Representative) or a witness, expert, or translator maliciously avoids the honoring of his obligations under this Code, an Investigator shall have the power to render a decision on arresting the person for the purpose of securing their honoring.

2. The decision shall specify the year, month, and day of preparing it, information about the person to be arrested, the ground and reasons of the Arrest, and the Inquest Body that is instructed to perform the Arrest.

3. Prior to arresting the person, the Inquiry Officer shall deliver a copy of the Arrest decision to him against his signature. Immediately after the *de-facto* deprivation of liberty, the person shall be taken before an Investigator. The fact of taking the person before an Investigator shall be documented in a Protocol on arresting the person, a copy of which shall be delivered to the arrested person. The Protocol shall specify the name, surname, and patronymic of the arrested person, as well as the day, hour, minute, place, conditions, and grounds of depriving him of liberty *de facto*, the name, surname, position, and rank of the Inquiry Officer that carried out the Arrest, the statements made by the arrested person, and the day, hour, and minute of bringing the arrested before an Investigator and filing a Protocol.

4. Short-Term Arrest may not outlast the performance of the obligation for the securing of which the person was arrested, but in any event not longer than 12 hours. The person shall be released immediately if it is no longer necessary to keep him in custody or if the maximum time period envisaged by this Paragraph has lapsed. This fact and the day, hour, and minute of releasing the arrested person shall be specified in the Arrest Protocol and its copy delivered to the person.

Article 146. Compulsory Taking before the Court

1. If a Private Participant in the Proceedings (with the exception of a Defender and an Authorized Representative) or a witness, expert, or translator maliciously avoids the honoring of his obligations under this Code, the Court shall have the power to render an order on taking the person before the Court for the purpose of securing their honoring.

2. The order shall specify the year, month, and day of preparing it, information about the person to be taken before the Court, the ground and reasons of taking before the Court, the date and time of taking the person before the Court, and the name of the competent body that is instructed to take the person before the Court.

3. A copy of the order issued by the Court shall be delivered to the person against his signature prior to taking him before the Court. The person shall be taken before the Court immediately thereafter.

4. A person taken before a Court on the basis of the ground envisaged by Paragraph 1 of this Article may not be held in deprivation of liberty any longer than the performance of the obligation for the securing of which he was taken before the Court. The person shall be released immediately after honoring the relevant obligation. It will be specified in the Court session Protocol, an excerpt of which, containing the relevant parts, shall be provided to the person on the same day.

Article 147. Judicial Fine

1. In case of failing to comply with the requirements of a warning issued by the presiding Judge, the Court shall have the power to impose a judicial fine in respect of a participant in the Court Proceedings (with the exception of a Defender, an Authorized Representative, and a Public Accuser).

2. The amount of a judicial fine may not exceed 100-fold the minimal salary. A judicial fine shall be imposed by a separate decision of the Court rendered in the Court session, a copy of which shall be sent to the fined person on the same day.

3. A decision on imposing a judicial fine may be appealed under the special review procedure prescribed by this Code.

4. In case of failure to voluntarily comply with a decision on imposing a judicial fine, it shall be subject to compulsory execution in accordance with the procedure stipulated by the Republic of Armenia Law on the Compulsory Execution of Judicial Acts.

5. A judicial fine imposed shall be paid to the state budget.

Article 148. Removal from the Proceedings

1. An attorney or Lawful Representative, as well as a Public Accuser participating in the proceedings may be removed from the proceedings by a reasoned decision of the Body Conducting the Criminal Proceedings if:

- 1) He has twice failed, without a valid excuse, to appear at the Court session or at the performance of an Action of Proceedings, which is mandatory for him; or
- 2) After having had three procedural sanctions imposed on him in accordance with the procedure stipulated by this Chapter, he continues the malicious failure to honor his obligations.

2. An Investigator's decision on removal from the proceedings an attorney or a Lawful Representative during the Pre-Trial Proceedings shall be subject to confirmation by the supervising Prosecutor.

3. An Investigator's decision on removal from the proceedings may be appealed to a higher-ranking Prosecutor, or to a Court if the latter does not grant the appeal. The Court's decision on removal from the proceedings may be appealed in accordance with the special review procedure stipulated by this Code.

SECTION 5. OTHER GENERAL PROVISIONS

CHAPTER 18. CLARIFICATIONS AND NOTICES

Article 149. Clarification of Rights and Obligations

1. Everyone becoming engaged in the proceedings shall have the right to know his rights and obligations, as well as the significance of an Action of Proceedings carried out with his participation.

2. The Body Conducting the Criminal Proceedings shall be obliged to clarify to every person engaged in the proceedings his rights and obligations, and to secure a proper possibility for their exercise.

3. The rights and obligations of every person engaged in the proceedings shall be clarified to him prior to beginning the Action of Proceedings carried out with his participation and prior to him expressing any position.

4. The Body Conducting the Criminal Proceedings shall be obliged to communicate to a Participant in the Proceedings the necessary data about persons in respect of whom Recusal may be expressed.

5. An Investigator shall be obliged to inform Private Participants in the Proceedings and Persons Supporting the Proceedings the name, surname, and work address of the supervising Prosecutor and the Head of an Investigative Body in the particular proceedings.

Article 150. Methods of Notification

1. The Body Conducting the Criminal Proceedings shall be obliged to give proper notice of an Action of Proceedings and a Court session to persons that have the right or obligation to participate therein.

2. Notification of a person during the proceedings shall be done:

1) By means of a paper-based or electronic notice;

2) By declaring the notice during an Action of Proceedings or a Court session taking place with the participation of the notified person, and mentioning it in the respective Protocol; or

3) Any other method, with the consent of the person being notified.

3. A minor shall be invited to an investigative action through his Lawful Representative or, in case of being in a special institution, through its administration.

4. A person kept in custody shall be notified through the administration of the respective place.

Article 151. Written Notice and Its Content

1. A written notice is a paper-based or electronic document by which the Body Conducting the Criminal Proceedings invites a person to participate in a particular Action of Proceedings or Court session.

2. The following shall be specified in a written notice:

- 1) Information about the inviting body or official;
- 2) The name, surname, address, and status of the invited person;
- 3) Relevant information about the notified person, if the invited person is notified through another person or an institution;
- 4) The time and place of appearance (month, day, and hour);
- 5) The fact underlying the initiation of the proceedings and its criminal-legal qualification;
- 6) The Action of Proceedings subject to implementation;
- 7) The obligation of the person receiving the notice to deliver it to the invited person; and
- 8) The legal consequences of failure to appear without a valid excuse.

3. The list of rights and obligations arising out of the status of an invited person shall be annexed to the written notice addressed to a person who is invited with status for the first time.

4. A written notice addressed to a Victim or witness shall specify that, in case of appearing to the Action of Proceedings without an attorney, the Action of Proceedings shall not be subject to postponement on the ground of demanding an attorney.

Article 152. Delivery of a Written Notice

1. A written notice shall be delivered no later than two days prior to the date of the Action of Proceedings or the Court session. If the Action of Proceedings or the Court session is not planned or cannot be postponed, then the written notice may be delivered on the day of appearing or immediately before appearing, specifying in it the reason for late delivery of the written notice.

2. A paper-based written notice shall be delivered in person or by mail at the address of the person being notified. If the person is notified for the first time, then the

paper-based written notice shall be delivered at the address of his permanent residence or registration or, if it is unknown, at the address of his work, education, or service.

3. A paper-based written notice shall be delivered to the person being notified in person against his signature or, in case of his temporary absence, an adult member of his family residing with him. If a paper-based written notice has been sent to the place of work, education, or service of the person being notified, then it shall be delivered to a competent member of the administration of the respective institution. The person receiving a paper-based written notice shall be obliged to deliver it to the person being notified.

4. In the dedicated signature section of the paper-based written notice, the recipient shall mark his name, surname, and time of receipt, which he shall confirm with his signature. If the person receiving the paper-based written notice is not the person being notified, then he shall also mark his relationship to the person being notified.

5. A paper-based written notice may be sent to a person residing in the territory of another state also through the Ministry of Foreign Affairs of the Republic of Armenia or in another procedure envisaged by an international treaty.

6. The dedicated signature section of a paper-based written notice shall be returned to the Body Conducting the Criminal Proceedings.

7. An electronic written notice shall be sent to the official e-mail address of the person being notified.

Article 153. Obligation to Receive a Paper-Based Written Notice

1. The person being notified shall be obliged to receive a paper-based written notice.

2. If the person being notified refuses to accept a paper-based written notice, then the person delivering the written notice shall mark so in the dedicated signature section of the written notice and return the written notice to the Body Conducting the Criminal Proceedings.

Article 154. The Propriety of Notification

1. Notification shall be proper if:

1) The person being notified has personally received a paper-based written notice;

2) A paper-based written notice has been received at an address specified by the person being notified;

3) The person who received a paper-based written notice has confirmed the fact of delivering it to the person being notified;

4) A paper-based written notice has been returned to the Body Conducting the Criminal Proceedings with mention of the refusal of the person being notified to accept it, provided that the person delivering the written notice is a person who is disinterested in the proceedings;

5) Electronic confirmation of the receipt of the electronic written notice sent to the official e-mail address of the person being notified is present;

6) The person being notified has confirmed the fact of receiving the notice with his signature in the Protocol of the Action of Proceedings;

7) The fact of notification has been documented by means of voice recording in the Court session;

8) The notice was sent by a method proposed clearly in writing by the person being notified.

2. A person invited by proper notice shall be obliged to appear at the place of carrying out an Action of Proceedings or a Court session at the mentioned time or give the Body Conducting the Criminal Proceedings prior notice of the reasons for not appearing. The coercive measures stipulated by this Code may be applied in relation to a person who fails to appear without a valid excuse.

CHAPTER 19. PETITIONS AND APPEALS

Article 155. Initiation and Resolution of a Petition

1. An oral Petition shall be documented in the Protocol of an Action of Proceedings or a Court session. A written Petition shall be annexed to the materials of the proceedings.

2. An oral Petition shall be examined and solved immediately. A written Petition shall be examined and solved within seven days of receiving it.

3. After notifying Private Participants in the Proceedings about the end of the Preliminary Investigation, their Petitions to the Investigator or supervising Prosecutor may be left without examination, which shall not be subject to appeal.

4. The resolution of a Petition may be postponed by a decision of the Body Conducting the Criminal Proceedings up to the determination of circumstances that are significant to making final decision regarding the Petition.

5. In the cases stipulated by this Code, a Petition initiated not in time shall be left without examination.

6. The Body Conducting the Criminal Proceedings shall immediately send a copy of the decision taken in relation to the Petition to the person who initiated the Petition.

7. Refusal of the Petition may not prevent the initiation of a Petition with the same content in subsequent stages of the proceedings or before another Body Conducting the Proceedings. Initiating the same Petition during the same stage of the proceedings or before the same Body Conducting the Proceedings shall be allowed if new arguments are filed in support of such Petition.

Article 156. Petition to be Recognized a Participant in the Proceedings

1. Any person who is not a Participant in the Proceedings shall have the right, if the grounds envisaged by this Code are present, to file a Petition to be recognized as a Victim or a Lawful Representative.

2. A person's Petition to be recognized as a Victim or a Lawful Representative shall be examined immediately by the Body Conducting the Criminal Proceedings within three days of receiving it. The person filing the Petition shall be notified immediately about the decision taken in respect of the Petition, a copy of which shall be sent to him.

Article 157. Appeals

1. Actions of Proceedings of a Court or of Public Participants in the Proceedings may be appealed under the procedure stipulated by this Code by the Participants in the Proceedings or by other persons whose legitimate interests such Action of Proceedings concerns.

2. An appeal against a Public Participant in the Proceedings shall be examined and solved within seven days of receiving it, unless this Code envisages a different time period.

3. An appeal shall be left without examination, if it was filed by a person who has no right to file an appeal, is late, does not contain mention of the appealed Action of Proceedings, or is not signed.

4. A person who filed an appeal shall have the right to withdraw it, unless this Code provides otherwise. Withdrawal of the appeal shall not prevent filing the same appeal again during the time period prescribed for filing such appeal.

5. An appeal filed for the benefit of an Accused may be withdrawn only with his consent. An appeal filed for the benefit of a minor or an incapable person may not be withdrawn.

6. The competent body shall take a decision regarding the appeal, a copy of which shall be sent immediately to the person who filed the appeal. The appeal and the decision taken in respect of it shall be annexed to the materials of the proceedings.

CHAPTER 20. PROPERTY CLAIMS

Article 158. Jurisdiction of Property Claims

A property claim shall be examined in the framework of the Criminal Proceedings, as per jurisdiction over the Criminal Proceedings.

Article 159. Legislation Applied during the Examination of Property Claims

1. A property claim shall be initiated, proven, and solved in accordance with the rules stipulated by the provisions of this Code.

2. The application of the rules of the civil procedure legislation is permitted if they do not contradict this Code, and if the property claim proceedings require rules that are not stipulated by this Code.

3. In the framework of the Criminal Proceedings, the ground, terms, volume, and methods of property damage compensation shall be defined by the civil, environmental, family, labor, social, and other substantive legislation.

4. In the Criminal Proceedings, the property claim is not affected by the statutory period of claim limitation stipulated by the civil legislation and by the right of regressive claim, as well as by the rules stipulated by the civil procedure legislation for filing a counterclaim.

5. A state duty shall not be collected for initiating a property claim.

6. Property-related aspects of a Conclusive Judicial Act shall be executed in accordance with the procedure stipulated by the Republic of Armenia Law on the Compulsory Execution of Judicial Acts.

Article 160. Property Damage Subject to Compensation during the Criminal Proceedings

The following damage inflicted by the act attributed to the Accused shall be subject to compensation during the Criminal Proceedings:

- 1) Property damage inflicted directly;
- 2) Missed gains;
- 3) Costs incurred for purchasing or repairing lost, damaged, or destroyed property;
- 4) Income not gained because of the Victim's inability to work;
- 5) Reasonable costs incurred for restoring health, including costs of additional food and supplementary care; and
- 6) Reasonable costs incurred for the burial of a deceased Victim or person subject to recognition as a Victim.

Article 161. Initiation of a Property Claim

1. A property claim for the protection of private interests shall be initiated and defended by the Victim or his representative. A property claim for the protection of state interests shall be initiated and defended by the Prosecutor.

2. A property claim may be initiated after delivering the Criminal Case File to Court, prior to the end of the preliminary hearings. A Victim who later becomes engaged in the proceedings has the right to initiate a property claim immediately after being recognized as a Victim.

3. A property claim shall be filed against the Accused or a person on whom property liability may be imposed for the actions of the Accused.

4. The claim application shall specify the proceedings in which the property claim is filed, by whom, against whom, based on what, and for what amount it is filed, and contain a request about the specific monetary amount of damage compensation and/or the forfeiture of property.

5. In case of need to check the claim basis and amount, the Victim, his representative, or the Prosecutor shall have the right, prior to the Parties delivering their closing speeches, to amend or supplement the claim application in writing.

6. If a claim application does not meet the requirements prescribed by law, the Court shall return it to the person who filed it for the purpose of addressing the shortcomings. In case of addressing the shortcomings and submitting again within a

three-day period, the claim shall be deemed admitted on the original day of filing. Otherwise, the claim shall be deemed not initiated.

7. In case of not initiating a property claim, a person shall have the right to initiate such a claim through civil procedure.

Article 162. Securing Compensation for a Property Claim

The Court shall take measures at its initiative or at the initiative of the person who filed the property claim in order to secure the property claim.

Article 163. Dropping a Property Claim

1. The person who filed a property claim has the right to drop the claim at any time, unless it contradicts the law or violates the rights and legitimate interests of other persons.

2. Admission of the dropping of the property claim shall result in the discontinuation of the property claim proceedings and deprive the respective person of the right to file the same property claim again through criminal or civil procedure.

3. Before admitting dropping of the property claim, the Court shall be obliged to clarify to the Victim the consequences envisaged by Paragraph 2 of this Article.

4. The Court shall render a separate decision in case of admitting or not admitting the dropping of the claim.

5. Dropping of the property claim is no basis for abolishing or changing the Accusation filed or for rendering an acquitting judgment.

Article 164. Solving a Property Claim

1. A property claim shall be solved by a Conclusive Judicial Act by granting it fully or partially, including in the form of a settlement agreement, or rejected or left without resolution.

2. In case of rendering an acquitting judgment or discontinuing the proceedings, the Court shall have the right to grant the claim fully or partially depending on the extent to which the claim has been proven.

3. If a judgment has entered into legal force about rejecting a property claim or fully or partially granting it, a claim with the same content may not be initiated through civil procedure.

4. A property claim left without resolution may be initiated at a later time through civil procedure.

Article 165. Compensation of Property Damage at the Court's Initiative

1. When a Victim is deprived of the possibility of defending his property interests because of being dependent upon the Accused, being incapable or having limited capability, or any other reason, the Court may, at its own initiative, solve the issue of compensating damage inflicted by the crime.

2. If the grounds envisaged by Paragraph 1 of this Article are present, the Court shall, in accordance with the procedure stipulated by this Code, examine the issue of compensating damage inflicted by the crime.

CHAPTER 21. REMUNERATION, EXPENSES, AND REIMBURSEMENT

Article 166. Remuneration of Attorneys, Experts, and Translators

1. Legal assistance rendered by an attorney shall be reimbursed by the client on terms agreed upon between the attorney and the client, or shall be rendered free of charge if the attorney agrees.

2. Legal assistance rendered to an Accused or a Victim by an attorney in cases envisaged by the legislation of the Republic of Armenia shall be reimbursed by the state.

3. An expert and a translator shall receive:

1) A salary from the workplace, if participation in the proceedings was performed as a work assignment;

2) Remuneration from the state in an amount stipulated by the legislation of the Republic of Armenia, if the work was performed based on direct agreement with the Body Conducting the Criminal Proceedings; or

3) Remuneration in an amount agreed upon with the relevant Private Participant in the Proceedings, if the work was performed on the basis of agreement with such Participant.

4. In the case stipulated by sub-paragraph 2 of Paragraph 3 of this Article, the remuneration shall be paid after the translator or the expert has submitted an invoice, based on a decision of the Body Conducting the Criminal Proceedings.

Article 167. Expenses of Persons Engaged in the Proceedings and Their Reimbursement

1. The state shall reimburse the following expenses incurred by a Victim, his Lawful Representative, a Lawful Representative of a Property Respondent or an Accused, an attorney appointed at the expense of the state, a translator, an expert, and a witness:

1) Transport expenses incurred for appearing when invited by the Body Conducting the Criminal Proceedings, save for air travel fare, and, with the consent of the Body Conducting the Criminal Proceedings, also the air travel fare;

2) The costs of renting a House, unless such costs were reimbursed in another manner;

3) The per diem necessary for such persons to reside outside the place of their permanent residence upon the demand of the Body Conducting the Criminal Proceedings, unless such costs have been reimbursed in another manner;

4) The average wage for the whole period during which the person was at the disposal of the Body Conducting the Criminal Proceedings for participating in the proceedings, and unable to perform his work duties, unless the average wage was maintained by such person's employer; and

5) The costs of cleaning, repairing, reinstating, or acquiring property that was soiled, spoiled, destroyed, or lost as a consequence of participation in an Action of Proceedings at the demand of the Body Conducting the Criminal Proceedings.

2. An expert shall also be reimbursed the cost of his own materials used by him in performing the work assigned to him, as well as the costs incurred for using the equipment necessary and obtaining the services necessary for performing the work.

3. Expenses incurred during the proceedings shall be reimbursed on the basis of a decision of the Body Conducting the Criminal Proceedings in accordance with an application by the persons listed in Paragraph 1 of this Article, in the amount stipulated by the legislation of the Republic of Armenia. The expenses stipulated by sub-paragraphs 1, 2, and 3 of Paragraph 1 of this Article may be reimbursed in the cases stipulated by the legislation of the Republic of Armenia at the initiative of the Body Conducting the Criminal Proceedings.

Article 168. Costs of Proceedings and Their Reimbursement

1. The following are the costs of proceedings:

- 1) Amounts of reimbursement of expenses of the appearance and per diem of a Victim, an expert, and a witness;
- 2) Amounts of the remuneration of experts and translators;
- 3) Amounts payable to an attorney engaged with state financing;
- 4) Amounts spent to store, deliver, and inspect the Physical Evidence;
- 5) Amounts spent by the competent body for finding an Accused who is fugitive;
- 6) Amounts spent to reimburse the value of items spoiled or destroyed during the performance of expert examinations and experiments and amounts spent for reimbursing other similar costs incurred during the proceedings; and
- 7) Amounts spent for activities necessary for the proper conduct of the proceedings.

2. In cases of public Accusation, the costs of proceedings shall be paid by the state, unless this Code stipulates otherwise. In private cases of private Accusation, the Court shall determine the procedure of sharing the costs of proceedings.

3. If the Convicted Accused person is able to pay, then the Court shall impose on them the costs of proceedings listed in sub-paragraphs 1 to 5 of Paragraph 1 of this Article.

4. In case if several persons are being convicted within the framework of the same set of proceedings, the costs of the proceedings shall be divided between them as per shares determined by the Court taking into account the degree and nature of guilt of each person, and the property status of each person.

5. If an Accused dies prior to the judgment entering into legal force, his heirs shall not be liable for his obligations associated with the costs of the proceedings.

6. If the Convicted Accused person or the Victim is obviously able to pay, the Court shall have the power to confiscate from them the costs incurred by the state to pay for legal assistance rendered to them, unless the legal assistance was rendered to the Accused regardless of his will.

CHAPTER 22. CONFIDENTIALITY

Article 169. Confidentiality of Private and Family Life

1. The Body Conducting the Criminal Proceedings shall be obliged to take the measures envisaged by law for protecting any secret related to private and family life.

2. During the proceedings, information concerning a person's private or family life shall not be arbitrarily collected, kept, used, or disseminated. At the demand of the Body Conducting the Criminal Proceedings, the participants in Actions of Proceedings are obliged not to disclose such information, about which their signature shall be taken.

3. Evidence concerning the most intimate aspects of private or family life shall, at the demand of an interested Participant in the Proceedings, be examined in an in-camera session of the Court.

Article 170. Protection of State Secrets

1. The Body Conducting the Criminal Proceedings shall be obliged to take the measures envisaged by law for protecting information containing state secrets.

2. Persons to whom the Investigator offers to communicate, in accordance with the provisions of this Code, information containing state secrets, may not refuse to comply with such requirement citing the need to protect state secrets. However, they have the right to receive in advance from the Investigator clarification confirming the need to receive such information, which shall be reflected in the respective Protocol.

3. A state servant giving Testimony about information containing state secrets entrusted upon him shall report it in writing to the head of the respective state body, unless the Body Conducting the Criminal Proceedings explicitly prohibits him from doing so.

4. The proceedings related to information containing state secrets shall be assigned to Judges, Prosecutors, Investigators, and Inquiry Officers that have, in accordance with the legislation of the Republic of Armenia, signed not to disclose such information.

5. Private Participants in Proceedings to whom information containing state secrets is presented for familiarization or otherwise communicated shall give their signature in advance about not disclosing such data. In case of refusing to give their signature, the information containing state secrets shall not be provided.

Article 171. Protection of Banking Secrets, Notary Secrets, Service Secrets, and Other Secrets Designated by Law

1. The Body Conducting the Criminal Proceedings be obliged to take the measures envisaged by law for protecting information containing banking secrets, notary secrets, insurance secrets, service secrets, commercial secrets, and other secrets designated by law.

2. During the proceedings, information containing the secrets specified in Paragraph 1 of this Article shall not be arbitrarily collected, kept, used, or disseminated. At the demand of the Body Conducting the Criminal Proceedings, the participants in Actions of Proceedings are obliged not to disclose such information, about which their signature shall be taken.

3. Persons to whom the Body Conducting the Criminal Proceedings offers to communicate, in accordance with the provisions of this Code, information containing attorney secrets, banking secrets, notary secrets, insurance secrets, and securities market service secrets, may refuse to comply with such requirement citing the need to protect the respective secret.

4. Persons to whom the Body Conducting the Criminal Proceedings offers to communicate, in accordance with the provisions of this Code, information containing secrets not stipulated by Paragraph 3 of this Article, may not refuse to comply with such requirement citing the need to protect the respective secret. However, they have the right to receive in advance from the Investigator clarification confirming the need to receive such information, which shall be reflected in the respective Protocol.

5. A person giving Testimony about information containing secrets not envisaged by Paragraph 3 of this Article, which has been entrusted upon him, shall report it in writing to the respective supervisor, unless the Body Conducting the Criminal Proceedings explicitly prohibits him from doing so.

6. Evidence concerning information containing the secrets designated by this Article may, at the demand of interested persons, be examined in an in-camera session of the Court.

CHAPTER 23. TIME PERIODS

Article 172. C Calculation of Time Periods

1. The time periods defined by this Code shall be counted in hours, days, months, and years.
2. The hour and day from which the time period starts running shall not be included when counting a time period.
3. When counting a time period in days, the time period begins from the zero hour of the night of the first day and ends on the 24th hour of the night of the last day. When counting a time period in months or years, the time period ends on the respective day of the last month or, if the month does not have that date, then the time period ends on the last day of such month. If the day on which a time period ends is not a working day, then the first working day following it shall be considered the last day of the time period.
4. A time period shall not be deemed missed if the appeal or other document has been delivered to the post office before the end of the time period or, for persons in custody or persons placed in a medical institution, if the appeal or other document has been delivered to the administration of the respective institution before the end of the time period.
5. The time of delivering an appeal or other document to the post office shall be determined by the postal stamp. The time of delivering an appeal or other document to the administration of a place of custody or the administration of a medical institution shall be determined by the note made by the offices or officials of such institutions.
6. The fact of receipt of documents by Persons Engaged in the Proceedings shall be confirmed by a proper document annexed to the materials of the proceedings.

Article 173. Consequences of Missing a Time Period and Procedure of Reinstating

1. Actions performed after the time period has ended shall give rise to unfavorable consequences in proceedings, unless the time period is reinstated.
2. The missed time period may be reinstated unless this Code provides otherwise.
3. A time period missed due to a valid excuse shall be reinstated by decision of the Body Conducting the Criminal Proceedings upon Petition by an interested person. The time period shall be reinstated only for the person filing such Petition, unless the respective decision of the Body Conducting the Criminal Proceedings provides otherwise.

4. The execution of a decision appealed beyond the defined time period may, upon Petition by the appealing person, be suspended until the issue of reinstating the missed time period has been solved.

PART TWO: PRELIMINARY PROCEEDINGS

SECTION 6. PRE-TRIAL PROCEEDINGS

CHAPTER 24. INITIATION OF CRIMINAL PROCEEDINGS

Article 174. Duty to Initiate Criminal Proceedings

1. A Prosecutor or Investigator shall be obliged, within the limits of his authority, to initiate Criminal Proceedings if the report of a *prima-facie* crime has been received from:

- 1) A natural person;
- 2) A legal entity;
- 3) A state or local government body or its official—regarding his activities; or
- 4) From an Inquiry Body, an Investigator, a Prosecutor, or a Judge—regarding the exercise of their powers.

2. The respective report shall be deemed a report of a *prima-facie* crime if it alleges an action and/or inaction that can be reasonably given the preliminary legal assessment of corresponding to a criminal act prescribed by the Criminal Code of the Republic of Armenia.

3. Information published in the mass media about a *prima-facie* crime may be an occasion for a Prosecutor or an Investigator to initiate Criminal Proceedings.

4. Denial of a request to extradite a person under international law shall be an occasion for initiating Criminal Proceedings in connection with an alleged crime specified in such extradition request, if such person and the alleged act fall under the effect of the Criminal Code of the Republic of Armenia.

5. Criminal Proceedings may not be initiated if the crime report was received from a source that is not stipulated by Paragraph 1 of this Article, including an unknown or undisclosed source. Such a report may be checked in accordance with the procedure stipulated by the Republic of Armenia Law on Operative-Intelligence Activities.

Article 175. Report by a Natural Person

1. A natural person's report of a *prima-facie* crime may be oral or written and shall be stated in the first person.

2. The report shall contain the name, patronymic, surname, date of birth, and residence address of the person presenting it, as well as the relationship of such natural person with the crime and his source of awareness. Materials confirming the report may be annexed to it.

3. When the natural person presenting the report has turned 16 years of age, he shall be warned of the criminal liability for false accusation, which he shall confirm with his signature.

Article 176. Report by a Legal Entity

1. A report by a legal entity shall have the form of an official letter stated on a letterhead paper or a confirmed telegraph, fax, radio text, e-mail, or other accepted form of communication.

2. A report shall contain the full name and legal address of the legal entity filing it, as well as the relationship of such legal entity with the crime and its source of awareness. Materials confirming the report may be annexed to it.

Article 177. Report by a State or Local Government Body or Official

1. A report by a state or local government body or official shall have the form of an official letter stated on a letterhead paper and confirmed with a seal, or a confirmed telegraph, fax, radio text, e-mail, or other accepted form of communication. Materials confirming the report may be annexed to it.

2. The report shall contain the full name and address of the state or local government body filing it or the name, surname, and position of the respective official, and specify the relevant body's or official's activity during the performance of which the fact of a *prima-facie* crime became known to him. Materials confirming the report may be annexed to it.

Article 178. Report by an Inquiry Body, Investigator, Prosecutor, or Judge

1. A report by an Inquiry Body, Investigator, Prosecutor, or Judge shall have the form of an official letter stated on a letterhead paper and confirmed with a seal, or a confirmed telegraph, fax, radio text, e-mail, or other accepted form of communication.

2. The report shall contain the full name and address of the body filing it or the name, surname, and position of the respective official, and specify the relevant body's or official's function during the performance of which the fact of a *prima-facie* crime became known to him. Materials confirming the report may be annexed to it.

Article 179. Documenting a Crime Report

1. Every time a report of a *prima-facie* crime is received from any source envisaged by Article 174 of this Code, the Prosecutor or Investigator shall immediately prepare a Protocol on initiating Criminal Proceedings.

2. The Protocol shall specify data on the official initiating Criminal Proceedings, the occasion of initiating Criminal Proceedings, the factual description of the alleged *prima-facie* crime, the Criminal Code article, paragraph, or sub-paragraph under the features of which the proceedings are started, and the list of materials annexed to the report, if any.

3. Immediately after the Protocol is prepared, a copy of it shall be delivered or sent to the person that filed the report.

Article 180. Course of Proceedings after Initiation

1. After preparing the Protocol on initiating Criminal Proceedings:

1) The Prosecutor shall, in accordance with the investigative prerogative rules prescribed by this Code, give the Head of an Investigative Body an Instruction to perform Preliminary Investigation;

2) The Investigator shall embark upon the performance of the Preliminary Investigation, giving immediate written notice thereof to the supervising Prosecutor.

2. At the same time as preparing the Protocol on initiating Criminal Proceedings, the competent person shall be obliged, within the limits of his authority, to undertake all the necessary measures envisaged by this Code for preventing or deterring the act subject to criminal prosecution, discovering the person who committed it, and keeping and safeguarding the crime traces and the objects or documents of significance to the proceedings.

3. If the Investigator who initiated Criminal Proceedings has no power, under the investigative prerogative rules prescribed by this Code, to perform a Preliminary Investigation, then he shall, after carrying out all the necessary Actions of Proceedings dictated by the situation, send the Protocol on initiating Criminal Proceedings to the supervising Prosecutor, annexing to it all the materials of the proceedings.

4. In case of discovering, during the Preliminary Investigation, a fact of the same person committing another alleged Crime, new Criminal Proceedings do not have to be initiated, provided that the Preliminary Investigation can be carried out at full scope within the frameworks of the already initiated proceedings.

CHAPTER 25. GENERAL CONDITIONS OF PRE-TRIAL PROCEEDINGS

Article 181. Forms of Performing a Preliminary Investigation

1. A Preliminary Investigation shall be performed under a general or simplified procedure.

2. A Preliminary Investigation related to grave or particularly grave crimes shall be performed under a general procedure. A Preliminary Investigation related to medium-gravity and non-grave crimes shall be performed under a simplified procedure.

3. In view of the nature and significance of the proceedings, the need of protecting the rights and legitimate interests of the Participants in Proceedings, and the objective of ensuring a proper and comprehensive investigation, the supervising Prosecutor may decide to conduct any proceedings related to medium-gravity and non-grave crimes under the general procedure of Preliminary Investigations.

Article 182. Preliminary Investigation Bodies

Within the limits of their authority, Investigators of the Police, the National Security Service, the State Revenue Committee, the Ministry of Defense, and the Special Investigative Service shall perform Preliminary Investigations.

Article 183. Investigative Prerogative

1. Investigators of the Police shall perform the Preliminary Investigation in proceedings related to the crimes prescribed by Articles 104-164, 166-187, 191, 192, 195-201, 204, 212-214, 218, 222, 223, 225, 225.1, 227-232, 235-249, 251-298, 300, 300.1, 300.2, 301, 301.1, 308-328, 331-332.3, 336, 341, 343-345.1, and 347-355 of the Criminal Code of the Republic of Armenia.

2. Investigators of the State Revenue Committee shall perform the Preliminary Investigation in proceedings related to the crimes prescribed by Articles 188, 189, 193, 194, 202, 203, and 205-211 of the Criminal Code of the Republic of Armenia.

3. Investigators of the National Security Service shall perform the Preliminary Investigation in proceedings related to the crimes prescribed by Articles 190, 217, 217.1, 219-221, 224, 226, 233, 234, 250, 299, 302-307, 329, 330, and 384-397.1 of the Criminal Code of the Republic of Armenia.

4. Investigators of the National Security Service or the State Revenue Committee shall perform the Preliminary Investigation in proceedings related to the crime prescribed by Article 215 of the Criminal Code of the Republic of Armenia.

5. Investigators of the Ministry of Defense shall perform the Preliminary Investigation related to crimes against the military service order, crimes committed in the territory of a military detachment, and crimes attributed to persons undergoing military service for a specific term or persons serving in the authorized state body in the field of defense and organizations in the field of defense (the management of the shares of which is assigned to the authorized state body in the field of defense).

6. Investigators of the Special Investigative Service shall perform the Preliminary Investigation in proceedings related to crimes allegedly committed by or with the alleged criminal participation of senior officials of the bodies of legislative, executive, or judicial power and persons carrying out special public service in connection with their official position, as well as crimes envisaged by Articles 149, 150, 154.1, and 154.2 of the Criminal Code of the Republic of Armenia.

7. If necessary, the Prosecutor General of the Republic of Armenia may take from Investigators of other Preliminary Investigation bodies and assign to Investigators of the Special Investigative Service the Criminal Proceedings related to crimes allegedly committed by or with the alleged criminal participation of the officials specified in Paragraph 6 of this Article, or crimes in which such persons were recognized as Victims.

8. In the cases envisaged by Paragraphs 2 and 4 of this Article, the Preliminary Investigation shall be performed by the body that initiated the particular proceedings, unless the competent Prosecutor assigns it to another Preliminary Investigation body.

9. The Preliminary Investigation body in the proceedings of which the alleged crime was discovered shall perform the Preliminary Investigation in proceedings related to the crimes prescribed by Articles 128, 165, 200, 208, 209, 216, 308-310, 314, 315, 333-335, 337-340, 342, 345, and 346 of the Criminal Code of the Republic of Armenia.

10. Investigators of the National Security Service or the State Revenue Committee shall perform the Preliminary Investigation in proceedings related to the crime prescribed by Articles 188, 189, 205, 206, 235, 263, 266, 268, 271, 272, 275, and 325 of the Criminal Code of the Republic of Armenia, if such alleged crimes were discovered in their proceedings, unless the competent Prosecutor assigns it to another Preliminary Investigation body.

11. The Prosecutor shall determine the prerogative in case if proceedings related to crimes subject to the prerogative of Investigators of different Preliminary Investigation bodies are merged in one set of proceedings, or in case of discovering, during the Preliminary Investigation, a crime subject to the prerogative of another Investigator, which is not stipulated by Paragraph 9 of this Article.

12. An Investigator of the Special Investigative Service may not perform the Preliminary Investigation of proceedings subject to the prerogative of an Investigator of another body, save for the cases provided by Paragraph 7 of this Article.

Article 184. Place of Performing the Preliminary Investigation

1. The Preliminary Investigation shall be performed in the place where the alleged crime was committed or, if it is impossible to determine such place, then in the place where the alleged crime was discovered.

2. If it is necessary to perform certain Proving Actions or other Actions of Proceedings in a different place, the Investigator may perform such Actions personally or, through the Head of the Investigative Body, to assign their performance to the Investigator of such place.

3. To ensure proprietary and comprehensiveness, the competent Prosecutor may decide to have the Preliminary Investigation performed in the place where the alleged crime was discovered, the place where its consequences occurred, or the place where the majority of the Accused, the Victims, and the witnesses are located.

4. In case of a lasting or continuing crime, the competent Prosecutor may decide to have the Preliminary Investigation performed in a place where the alleged crime ended or was terminated.

5. In case of committing alleged crimes in more than one place, if the proceedings related to them were merged in one set of proceedings, the competent Prosecutor may decide to have the Preliminary Investigation performed in the place where the majority or the gravest of such crimes were or was committed.

6. During the Preliminary Investigation, disputes related to territorial jurisdiction shall be solved by the Prosecutor General of the Republic of Armenia or his deputy.

Article 185. Performance of a Preliminary Investigation by an Investigative Team

1. If the proceedings are complicated or have a large volume, the performance of the Preliminary Investigation may, by a specific decision, be assigned to several Investigators. The decision shall specify the team leader Investigator and all the other Investigators assigned to perform the Preliminary Investigation.

2. An investigative team may be created only for the performance of a Preliminary Investigation under the general procedure.

3. The Private Participants in the Proceedings shall be familiarized with the decision to create an investigative team, and the right to express Recusal in relation to any Investigator shall be clarified to them.

Article 186. Powers of the Investigative Team Leader

1. The investigative team leader shall organize and manage the work of the investigative team.

2. Only the investigative team leader shall have the power to render decisions on merging, separating, discontinuing, and transforming the proceedings, as well as to initiate a Petition on engaging a person as the Accused, a Petition on not initiating criminal prosecution, Petitions on terminating, suspending, and resuming the criminal prosecution, a Petition on selecting a restraint measure, or a Petition on prolonging its term.

3. The Accusatory conclusion or conclusive act shall be prepared by the investigative team leader.

4. The investigative team leader shall have the power to participate in investigative actions performed by other Investigators, to perform investigative actions on his own, and to render decisions.

Article 187. Forms of Ending the Preliminary Investigation

1. The Preliminary Investigation may end by means of preparing an accusatory conclusion, an accusatory act, a conclusive act, or a decision on discontinuing the proceedings.

2. The Prosecutor or Investigator shall be obliged to take measures to clarify the circumstances contributing to the commission of the crime and, if necessary at the completion of the Preliminary Investigation, to file a Petition with the head or official of

the respective legal entity about taking measures to eliminate such circumstances. Such a Petition shall be reviewed, and the results shall, within a one-month period, be communicated in writing to the body or official that sent it.

Article 188. Prohibition of Disclosure of Preliminary Investigation Data

1. Private Participants in the Proceedings and Persons Supporting the Proceedings shall have the right to disclose Preliminary Investigation data that became known to them in the framework of a due process of law, unless the Investigator has in writing prohibited such disclosure due to any of the grounds envisaged by Paragraph 2 of this Article.

2. Disclosure of the Preliminary Investigation data shall be prohibited if it may:

- 1) Hinder the normal course of the Pre-Trial Proceedings;
- 2) Become a reason for the commission of a crime;
- 3) Undermine the rights and legitimate interests of the Participants in the Proceedings or other persons; or
- 4) Lead to the disclosure of a secret protected by law.

3. The prohibitions envisaged by this Article concerning the disclosure of Preliminary Investigation data shall not apply to information shared between an attorney and his client.

Article 189. Ground of Performing an Inquiry

1. An Inquiry shall be performed on the basis of a written Instruction by an Investigator.

2. The Inquiry Body may perform only such undercover investigative actions which are specified in the Instruction.

Article 190. The Beginning and the End of an Inquiry

1. An Inquiry may be performed only during the Preliminary Investigation.

2. The Inquiry shall end at the same time as the Preliminary Investigation.

The undercover investigative actions and operative-intelligence measures continuing at the time of completing the Preliminary Investigation shall be terminated.

Article 191. Initiation of Public Criminal Prosecution

1. Public criminal prosecution shall be initiated by a decision of the supervising Prosecutor on engaging a person as the Accused.

2. Public criminal prosecution of a person shall be initiated on the basis of facts indicating the commission of the crime by him.

3. In case of the existence of the facts envisaged by Paragraph 2 of this Article, the Investigator may file a Petition on engaging a person as the Accused to the supervising Prosecutor, annexing to such Petition the Evidence confirming such facts and other materials of the proceedings. In case the person was arrested on the basis of reasonable suspicion that arose directly, the Investigator shall present the Petition and the materials mentioned in this Paragraph to the supervising Prosecutor no later than within 18 hours of delivering the Arrest decision to the person.

4. Within 18 hours of receiving the Petition and the materials supporting it, the supervising Prosecutor shall render a decision on engaging the person as the Accused, or reject the Investigator's Petition by its decision in case of failing to find grounds for initiating criminal prosecution.

5. The decision on engaging the person as the Accused shall specify the person's name, surname, patronymic, and other necessary data concerning the person, as well as the factual basis of the Accusation, i.e. the essence of the alleged criminal act, the place, time, method, and other circumstances of its commission, insofar as they have been established using the available Evidence, and the Criminal Code article, paragraph, or sub-paragraph that prescribes liability for committing the alleged criminal act (legal assessment of the act).

6. When the person is several acts prescribed by several articles, paragraphs, or sub-paragraphs of the Criminal Code are attributed to the person, the decision shall specify the factual circumstances and legal assessment of each one of them.

7. The Prosecutor may not instruct the Investigator to present a Petition on engaging a person as the Accused with a particular content. A Prosecutor may not draft such a decision.

Article 192. Presenting the Accusation

1. No later than within 18 hours of receiving the decision on engaging a person as the Accused, the Investigator shall present the Accusation to the Accused.

2. When the Accused is hiding from the Body Conducting the Criminal Proceedings, or his availability cannot be ensured due to other reasons, the time period envisaged by Paragraph 1 of this Article for presenting the Accusation shall be suspended, and the Accusation shall be presented immediately after the Accused becomes available to the Body Conducting the Criminal Proceedings.

3. Having verified the identity of the Accused, the Investigator shall deliver to him a copy of the decision on engaging him as the Accused, clarify the factual circumstances of the Accusation and its legal assessment, clarify the rights and obligations of the Accused under Article 43 of this Code, and deliver their list to the Accused.

4. The performance of the actions prescribed by Paragraph 3 of this Article shall be confirmed by a Protocol prepared by an Investigator, which shall be signed by the Investigator, the Accused, and other persons that are present. In case of the refusal of the Accused or other present persons to sign the Protocol, the Investigator shall, in the presence of a specially-invited procedure observer or subject to video recording, determine and state in the Protocol the reasons for such refusal or, if they do not communicate any such reasons, then specify so in the Protocol and immediately send a copy thereof to the supervising Prosecutor.

Article 193. Changing or Supplementing the Accusation

If the need to change or supplement the Accusation is justified during the Preliminary Investigation, then a new decision on engaging an Accused shall be rendered in compliance with the requirements of Articles 191 and 192 of this Code, and a new Accusation shall be presented to the person.

Article 194. Time Periods of Public Criminal Prosecution

1. In the Pre-Trial Proceedings, public criminal prosecution may not last longer than:

1) Two months from the moment of its initiation—in case of proceedings related to a non-grave crime;

2) Four months from the moment of its initiation—in case of proceedings related to a medium-gravity crime;

3) Eight months from the moment of its initiation—in case of proceedings related to a grave crime; and

4) 10 months from the moment of its initiation—in case of proceedings related to a particularly grave crime;

2. In exceptional cases, when the interest of justice so requires, the time periods stipulated by Paragraph 1 of this Article may be prolonged by a maximum of two months by a higher-ranking Prosecutor.

Article 195. Discretionary Criminal Prosecution

1. If a supervising Prosecutor, taking into consideration the nature of the committed crime and the degree of its dangerousness, consequences, and personal character of the person who committed the crime, finds that the his criminal prosecution is not appropriate, because there is no need to impose a criminal sanction upon him for the purpose of restoring social justice, correcting the person, and preventing crime, then it shall have the power to not initiate criminal prosecution or to terminate the initiated criminal prosecution provided that all of the following conditions are present:

1) A person has committed for the first time a non-grave or medium-gravity crime;

2) In case damage has been inflicted by the crime, the person has compensated or otherwise offset it; or

3) The person has helped to expose the circumstances of the crime.

2. A decision on not initiating criminal prosecution or terminating criminal prosecution on the basis of a ground envisaged by Paragraph 1 of this Article may be appealed to a higher-ranking Prosecutor by a person who suffered from the crime or by his representative within a 15-day period of receiving such decision. The higher-ranking prosecutor shall, within a 15-day period of receiving the appeal, render a decision on granting or rejecting it.

3. In case of granting the appeal, the higher-ranking Prosecutor shall abolish the challenged decision and give the necessary written Instructions demanded by the situation to the supervising Prosecutor. The Investigator shall immediately give written notice to the Private Participant in the Proceedings about such abolition of the decision.

4. In case of rejecting the appeal, the Prosecutor shall render a decision confirming the lawfulness and justification of the challenged decision. The higher-ranking Prosecutor shall immediately deliver the decision on rejecting the appeal to the person lodging the appeal, clarifying to him the procedure and time periods of appealing such decision.

5. The person who lodged the appeal may, in the procedure and time period envisaged by Article 307 of this Code, appeal to Court the Prosecutor's decision regarding the appeal.

6. In case the Court grants the appeal, the competent Prosecutor shall initiate or renew the criminal prosecution.

Article 196. Grounds of Suspending Public Criminal Prosecution

1. In the Pre-Trial Proceedings, the time periods of criminal prosecution envisaged by Article 194 of this Code shall be suspended when the Prosecutor renders a decision based on an Investigator's Petition about suspending criminal prosecution on the basis of any ground envisaged by Paragraph 2 of this Article.

2. Criminal prosecution may be suspended if any of the following grounds is present:

1) The Accused is hiding from the Body Conducting the Criminal Proceedings;

2) The Accused has a grave illness that deprives him of possibility of participating in the proceedings for a lengthy time period;

3) The Accused cannot participate in the proceedings because of being outside the borders of the Republic of Armenia;

4) A cooperation agreement has been concluded with the Accused; or

5) There is a Force Majeure that temporarily hinders further implementation of the proceedings.

3. The time period of criminal prosecution shall be suspended until the circumstances serving as a basis for it have ceased or, in the case envisaged by subparagraph 4 of Paragraph 2 of this Article, until the first instance Court publishes a Conclusive Judicial Act in such proceedings, in respect of which the Accused has undertaken to cooperate.

4. Suspension of the time period of criminal prosecution may not last longer than the end of the statutory period of limitation for holding a person liable under the Criminal Code of the Republic of Armenia for the respective crime.

Article 197. Procedure of Suspending Public Criminal Prosecution

1. The decision to suspend criminal prosecution shall be rendered after performing all the Actions of Proceedings possible and necessary in the absence of the

Accused, but shall not restrict the performance of other Actions of Proceedings during the Preliminary Investigation.

2. The Investigator shall immediately send to the supervising Prosecutor the Petition on suspending criminal prosecution, together with the supporting materials. The supervising Prosecutor shall, no later within seven days of receiving such Petition, render a decision on suspending the time period of criminal prosecution or on rejecting the Petition. Such decisions shall be immediately sent to the Investigator.

3. After receiving the supervising Prosecutor's decision on suspending criminal prosecution, the Investigator shall immediately deliver copies thereof to the Private Participants in the Proceedings and explain to them the procedure and time periods for appealing such decision.

4. Private Participant in the Proceedings may appeal the decision on suspending criminal prosecution to a higher-ranking Prosecutor within a 15-day period of receiving it. The higher-ranking Prosecutor shall, within a 15-day period of receiving the appeal, render a decision on granting or rejecting it.

Article 198. Resuming the Suspended Criminal Prosecution

1. If the ground of suspending criminal prosecution has ceased, the Investigator shall file a Petition to the Prosecutor on resuming the criminal prosecution. The confirmation and appeal of such decision shall be subject to the procedure stipulated by Paragraphs 3 and 4 of Article 197 of this Article.

2. Criminal prosecution shall also resume when a higher-ranking Prosecutor renders a decision terminating the decision on suspending criminal prosecution.

Article 199. Procedure of not Initiating or Terminating Public Criminal Prosecution

1. If any of the grounds excluding criminal prosecution, as defined by Article 12 of this Code, is present, the Investigator shall file a Petition on not initiating or on terminating criminal prosecution, based on which the supervising Prosecutor shall render a decision on granting or rejecting it.

2. If the need to terminate the criminal prosecution in respect of any part of the Accusation is substantiated during the Preliminary Investigation, the Investigator shall file a Petition with the supervising Prosecutor on terminating such part of the criminal prosecution. Based on such Petition, the supervising Prosecutor shall render a decision on granting or rejecting it.

3. The supervising Prosecutor may also render a decision on not initiating or on terminating criminal prosecution at his initiative, based on the materials of the proceedings received from an Investigator.

4. Such decision shall state the occasion and basis of initiating Criminal Proceedings, the ground for initiating criminal prosecution in relation to a person, the factual circumstances established during the Preliminary Investigation, the Evidence confirming them, the legal grounds and justification of not initiating or terminating criminal prosecution, and the issues related to the termination of a restraint measure applied earlier or to the disposition of seized or confiscated property and Physical Evidence.

5. When not initiating or when terminating criminal prosecution based on the grounds envisaged by sub-paragraphs 1 to 4 of Paragraph 1 of Article 12 of this Code, the decision shall not contain language that casts doubt on the person's innocence.

6. Appeals against a decision on not initiating or on terminating public criminal prosecution shall be subject to the procedure stipulated by Paragraphs 3 to 6 of Article 195 of this Code.

7. The Investigator shall also deliver the decision on not initiating or on terminating criminal prosecution to the person who filed a crime report. The Investigator shall also explain to the Private Participants in the Proceedings and to the person filing a crime report the procedure and time periods of becoming familiar with the materials of the proceedings, as envisaged by Article 202 of this Code.

8. The decision on not initiating or on terminating criminal prosecution shall enter into legal force when the appeal period stipulated by this Code lapses or, in case of appeal, when it is finitely confirmed.

Article 200. Renewing Non-Initiated or Terminated Criminal Prosecution

1. A non-appealed decision of a supervising Prosecutor on not initiating or on terminating criminal prosecution may be abolished by a higher-ranking Prosecutor within three months of its entry into legal force.

2. A decision of a supervising Prosecutor on not initiating or on terminating criminal prosecution and a higher-ranking Prosecutor's decision on confirming it may be abolished by the Prosecutor General of the Republic of Armenia or his deputy within three months of rendering such decision, unless such decision has come under judicial review.

3. After the passage of the time periods specified in Paragraphs 1 and 2 of this Article, a decision of a supervising Prosecutor on not initiating or on terminating criminal prosecution and a higher-ranking Prosecutor's decision on confirming it may be abolished only by the Prosecutor General of the Republic of Armenia only on the basis of a new circumstance, unless such decisions has come under judicial review.

4. In case of abolishing the decisions envisaged by this Article, the criminal prosecution shall be initiated or resumed, and copies of the decisions shall be delivered immediately to the Private Participant in the Proceedings, explaining to them the procedure and time periods of appealing such decisions in Court.

CHAPTER 27. COMPLETION OF THE PRELIMINARY INVESTIGATION

Article 201. Preliminary Investigation Completion by Means of Preparing an Accusatory Conclusion

1. If the Investigator, having assessed all the Evidence collected in the Pre-Trial Proceedings, reaches the inference that conviction of the Accused by a competent Court for the crime attributed to the Accused is highly likely, then the Investigator shall undertake to prepare a Criminal Case File on the basis of the materials of the proceedings. The Investigator shall give written notice of the completion of the Preliminary Investigation to the Private Participant in the Proceedings and notify them of the place, time, and sequence of becoming familiar with the Criminal Case File. At the same time, the Investigator shall begin to prepare the accusatory conclusion.

2. The Investigator shall also clarify to the Private Participants in the Proceedings in writing that, after delivery of the Criminal Case File to Court, they may present their Petitions to the competent Court.

3. Before notifying about completion of the Preliminary Investigation, the Investigator shall take measures to terminate undercover investigative actions and operative-intelligence measures implemented by his Instruction and to annex their results to the Criminal Case File.

**Article 202. Procedure of Becoming Familiar with the Criminal Case File
before Preparation of the Accusatory Conclusion**

1. The Investigator shall present the Criminal Case File to the Accused and his Lawful Representative and Defender for familiarization in all cases, and to the other Private Participants in the Proceedings—upon their written request.

2. The Criminal Case File shall be presented for familiarization with numbered pages and a list of the documents contained in each volume, in the form of one bound volume or several bound volumes. The Physical Evidence and annexes to the Protocols of the Proving Actions shall be presented together with the Criminal Case File for familiarization, as well. If the Criminal Case File consists of several volumes, all the volumes shall be presented concurrently.

3. Copies of all the materials in the Criminal Case File shall be delivered to a person who is becoming familiar with the Criminal Case File upon the request of such person.

4. A person who is becoming familiar with the Criminal Case File shall have the right to write information out of documents in the File, to listen to audio recordings, to watch videos, and to look at pictures annexed to Protocols using the relevant equipment, and to study and take photos of the Physical Evidence.

5. In case of familiarization with information containing secrets protected by law, the Investigator shall warn about the impermissibility of their disclosure and the liability prescribed for doing so, in connection with which the relevant persons shall sign, and a Protocol shall be prepared.

6. The Participants in the Proceedings shall be obliged to become familiar with the Criminal Case File in a reasonable period. If necessary, the Investigator may set a reasonable period for a particular Participant in the Proceedings to become familiar with the Criminal Case File.

Article 203. Protocol of Familiarization with the Criminal Case File

1. The fact that a Private Participant in the Proceedings has become familiar with the Criminal Case File shall be documented in a Protocol prepared by the Investigator.

2. The Protocol shall contain the number of the Criminal Case File volumes presented for familiarization and the number of pages in each volume, the Physical Evidence, the annexes to the Protocols of the Proving Actions, the place, beginning and

end (duration) of becoming familiar with the Criminal Case File, and whether copies of the Criminal Case File were made.

Article 204. The Accusatory Conclusion and Annexes Thereto

1. The introductory part of the accusatory conclusion shall specify the time and place of preparing it, the name, surname, and position of the person preparing it, and the sequential number of the proceedings.

2. The descriptive part of the accusatory conclusion shall state the occasion and basis of initiating the Criminal Proceedings, the date and basis of initiating criminal prosecution of the Accused, and the factual circumstances confirmed during the Preliminary Investigation, including the circumstances characterizing the Accused and the Victim.

3. The reasoning part of the accusatory conclusion shall analyze the Evidence confirming the guilt of the Accused, the arguments cited in defense of the Accused, the actions taken to check them, and the Evidence refuting such arguments.

4. The final part of the accusatory conclusion shall state the name, surname, and patronymic of the Accused, his date of birth (day, month, and year), his birth place, family status, work place, occupation, education, and other necessary information concerning the Accused and important for the proceedings, as well as the legal assessment of the act attributed to him (the Criminal Code Article, Paragraph, or subparagraph that prescribes the crime for the commission of which the Accused is charged).

5. The accusatory conclusion shall be signed and sealed by the person preparing it.

6. The Investigator shall annex to the accusatory conclusion a statement on the status of all Persons Engaged in the Proceedings and the relevant personal data, a statement on the list of the Accusation Party Evidence presented to the Court for examination, a statement on the location of the Physical Evidence, a statement on measures taken to secure potential forfeiture of property or for securing a potential property claim, a statement on Court expenses made, a statement on coercive measures applied, and a statement on the time periods of criminal prosecution.

Article 205. Delivery of the Accusatory Conclusion to the Supervising Prosecutor

1. The Investigator shall deliver the accusatory conclusion, together with the Criminal Case File, to the supervising Prosecutor no later than 15 days before the end of the end of the time period of criminal prosecution stipulated by this Code for a particular Accused.

2. The Criminal Case File shall be delivered to the supervising Prosecutor with numbered pages and a list of the documents contained in each volume, in the form of one bound volume or several bound volumes. The Physical Evidence and annexes to the Protocols of the Proving Actions kept together with the Case File shall be delivered to the Prosecutor, as well.

Article 206. Circumstances Subject to Checking in the Criminal Case File Received with an Accusatory Conclusion

As a result of studying the Criminal Case File received with an accusatory conclusion, the Supervising Prosecutor shall determine whether:

1) The act attributed to the Accused, its danger to the public and criminal unlawfulness, its commission by the Accused, and the guilt of the Accused for committing such act have been proven;

2) The Accusation presented to the Accused includes all the crimes allegedly committed by him;

3) Criminal prosecution has been initiated in relation to all the persons that took part in the alleged crime;

4) The legal assessment of the act attributed to the Accused has been made correctly;

5) There are any grounds for suspending or terminating the criminal prosecution or discontinuing the proceedings;

6) The restraint measure applied in relation to the Accused or the non-application thereof is legitimate;

7) The necessary measures have been taken to secure the potential forfeiture of property, a potential property claim, and potential Court expenses;

8) A comprehensive and impartial Preliminary Investigation has been carried out;

9) The other rules of this Code defining the procedure of carrying out the Preliminary Investigation have been met; and

10) The accusatory conclusion meets the requirements of Article 204 of this Code.

Article 207. Decision of the Supervising Prosecutor in a Criminal Case File Received with an Accusatory Conclusion

1. Within seven days of receiving the Criminal Case File with an accusatory conclusion, the supervising Prosecutor shall take one of the following decisions:

1) A decision on approving the accusatory conclusion;

2) A decision on restating the accusatory conclusion, if the study of the Criminal Case File showed that certain facts need to be removed from the Accusation or that the legal assessment of the act attributed to the Accused needs to be changed for the benefit of the Accused without changing facts that are materially different from the original;

3) A decision on returning the Criminal Case File to the Preliminary Investigation body, if the study of the Criminal Case File showed that it is necessary to continue the Preliminary Investigation or to discontinue the proceedings or to suspend the time period of criminal prosecution or to prepare a new accusatory conclusion.

2. If the study of the Criminal Case File showed that the Accusation presented to the Accused needs to be supplemented or changed with facts that materially differ from the original, then the supervising Prosecutor shall return the Criminal Case File to the Preliminary Investigation body for continuing the Preliminary Investigation.

3. The supervising Prosecutor who received the Criminal Case File with an accusatory conclusion may abolish or change the restraint measure applied in relation to the Accused or, if no restraint measure has been applied, take measures to apply a restraint measure.

4. In case of approving or restating the accusatory conclusion, the supervising Prosecutor may render a decision on reducing or supplementing the list of the Accusation Party's Evidence presented to the Court for examination.

Article 208. Delivery of the Criminal Case File to Court

1. In case of approving or restating the accusatory conclusion, the supervising Prosecutor shall, by his decision, deliver the accusatory conclusion, together with the Criminal Case File, to the competent Court.

2. If the Accused has been detained, then the accusatory conclusion shall, together with the Criminal Case File, be delivered to the Court no later than 15 days prior to the end of the detention period of the Accused.

3. The supervising Prosecutor shall give the Private Participant in the Proceedings immediate written notice of the delivery of the Criminal Case File to the Court, by duly sending to them the approved copies of the accusatory conclusion and of the annexes thereto. If the accusatory conclusion or the annexes thereto have been amended, then only the latest versions of the accusatory conclusion or its annexes shall be presented, annexing to them a copy of the respective decision of the Prosecutor.

4. A Private Participant who does not master the language of the Criminal Proceedings shall also be given the approved translations of the accusatory conclusion and its annexes, all signed by a translator.

Article 209. Completion of the Preliminary Investigation by Means of Discontinuing the Criminal Proceedings

1. If any of the grounds envisaged by Article 13 of this Code is present, the Investigator shall render a decision on discontinuing the Criminal Proceedings, which shall, together with the materials of the proceedings, be delivered to the supervising Prosecutor.

2. The decision shall specify the occasion and basis of initiating Criminal Proceedings, the factual circumstances confirmed during the Preliminary Investigation, the Evidence confirming such circumstances, the legal grounds and justification of discontinuing the Criminal Proceedings, and the issues related to the disposition of the seized or confiscated property and the Physical Evidence.

3. Within seven days of receiving the decision on discontinuing the Criminal Proceedings, the supervising Prosecutor shall approve it or render a decision on returning the materials of the proceedings to the Preliminary Investigation body, if he determines that the Preliminary Investigation needs to be continued.

4. The procedure stipulated by Paragraphs 3 to 6 of Article 195 of this Code shall apply in respect of delivery of the decision on discontinuing the Criminal Proceedings, as approved by the supervising Prosecutor, to the Private Participant in the Proceedings and in respect of appeals against such decision.

5. The Investigator shall deliver the decision on discontinuing the Criminal Proceedings, as approved by the supervising Prosecutor, also to the person who filed the crime report. The Investigator shall also explain to the Private Participants in the

Proceedings and to the person who filed the crime report the procedure stipulated by Article 202 of this Code for becoming familiar with the Criminal Case File.

6. A decision on discontinuing the Criminal Proceedings based on the grounds envisaged by sub-paragraphs 3 or 4 of Paragraph 1 of Article 13 of this Code, which has entered into legal force, may be abolished by a decision of the higher-ranking Prosecutor. In such cases, the proceedings shall be renewed.

CHAPTER 28. PECULIARITIES OF SIMPLIFIED PRELIMINARY INVESTIGATION

Article 210. General Provisions on Simplified Preliminary Investigation

1. Simplified Preliminary Investigation shall be performed in respect of alleged non-grave and medium-gravity crimes, taking into consideration the general rules of this Code and the peculiarities stipulated by this Chapter.

2. Simplified Preliminary Investigation may not be performed in proceedings related to several alleged crimes, when one of the alleged crimes is grave or particularly grave.

Article 211. Time Period of Criminal Prosecution during Simplified Preliminary Investigation

1. During simplified Preliminary Investigation, criminal prosecution in case of a non-grave crime shall end within the shortest possible time period, but not later than within a month of initiating criminal prosecution, or two months in case of a medium-gravity crime.

2. In the cases and procedure stipulated by Article 194 of this Code, the time periods specified in Paragraph 1 of this Article may be prolonged by a higher-ranking Prosecutor for an additional month.

Article 212. Factual Circumstances to be found during Simplified Preliminary Investigation

During simplified Preliminary Investigation, the incident and its circumstances (time, place, method, and the like), the relationship of the Accused to the incident, the features of the alleged crime envisaged by the Criminal Code, and the damage inflicted by the alleged crime shall be found.

Article 213. Becoming Familiar with the Materials of the Proceedings; the Accusatory Act

1. Before the preparation of the accusatory act, the Private Participants in the Proceedings shall, in accordance with the procedure envisaged by Article 202 of this Code, become familiar with the materials of the proceedings.

2. After the Private Participants in the Proceedings have become familiar with the materials of the proceedings, the Investigator shall, in accordance with the requirements of Article 204 of this Code, prepare an accusatory act and send it, together with the materials of the proceedings, to the supervising Prosecutor on the same day.

Article 214. Actions of the Supervising Prosecutor upon Receipt of the Accusatory Act

1. The Supervising Prosecutor shall be obliged, within three days of receiving the materials of the proceedings together with an accusatory act, to render one of the decisions envisaged by Paragraph 1 of Article 207 of this Code.

2. In case of rendering a decision on returning the materials of the proceedings to the Preliminary Investigation body, the supervising Prosecutor shall concurrently render a decision on continuing the Preliminary Investigation under the general procedure.

SECTION 7. THE PROVING ACTIONS

CHAPTER 29. GENERAL RULES ON THE PERFORMANCE OF INVESTIGATIVE ACTIONS

Article 215. Investigative Actions

The following are the investigative actions:

- 1) Questioning;
- 2) Confrontation;
- 3) Checking Testimony on the spot;
- 4) Inspection;
- 5) Examination;
- 6) Experimentation;
- 7) Recognition;
- 8) Demand for information;
- 9) Taking objects or documents;
- 10) Search;
- 11) Seizure; and
- 12) Exhumation.

Article 216. Grounds for the Performance of Investigative Actions

1. An investigative action may be performed only when there are sufficient grounds to assume that it may result in the acquisition of Evidence that is significant for the proceedings in question.

2. The following may be performed only on the basis of an Investigator's decision:

- 1) An initial inspection of a House that is the Incident Scene;
- 2) Exhumation;
- 3) A search, with the exception of the search of a House and, in cases envisaged by this Code, a search of the person;
- 4) Seizure, with the exception of seizure performed in a House, or seizure of documents and objects containing banking secrets, notary secrets, insurance secrets, and securities market service secrets.

3. Seizure of documents containing state secrets may be performed only with the permission of a Prosecutor.

4. The following may be performed only on the basis of a Court's decision:
 - 1) A search and seizure in a House;
 - 2) The inspection of a House that is not the Incident Scene and the subsequent inspection of a House that is the Incident Scene; and
 - 3) The seizure of documents and objects containing banking secrets, notary secrets, insurance secrets, and securities market service secrets.

Article 217. Participants in an Investigative Action

1. An investigative action may be performed by an Investigator who has the power to perform an investigative action in the proceedings in question.
2. An Investigator shall be obliged, before starting the questioning of an Accused or before starting an investigative action performed on the basis of the supervising Prosecutor's Instruction, to take the necessary measures for informing the supervising Prosecutor about the place and time of its performance.
3. The Supervising Prosecutor may participate in the performance of the investigative actions specified in Paragraph 2 of this Article for the purpose of supervising lawfulness. In doing so, the supervising Prosecutor may not undertake to perform the investigative action or any part thereof or otherwise to steer the course of the investigative action.
4. For the purpose of providing professional assistance during the performance of the investigative action or the documentation of the results, the Investigator may engage an expert in the performance of the investigative action.
5. To ensure the effectiveness of the investigative action, the Investigator may engage in it also the Private Participants in the Proceedings, as well as the Persons Supporting the Proceedings.
6. Checking Testimony on the spot, inspection, exhumation, examination, experimentation, recognition, search, and seizure shall be performed with the participation of at least two procedure observers. The same procedure observer may not participate in more than one investigative actions performed during the same set of proceedings.
7. If the participation of a procedure observer in the performance of an investigative action is impossible, the Investigator shall specify in the Protocol the circumstances confirming the impossibility of ensuring the participation of a procedure observer. An investigative action performed without procedure observers shall be subject to mandatory video recording.

8. To ensure the normal performance of an investigative action, the Investigator may engage in its performance employees of the Inquiry Body, as well.

Article 218. General Safeguards of the Rights of Participants in an Investigative Action

1. The performance of an investigative action shall be prohibited from 22:00 to 7:00 hours, unless its postponement may reasonably cause loss or damage of the Evidence expected as a result of such investigative action.

2. Prior to starting an investigative action, the Investigator shall check the identity of all the participants engaged in the performance of the investigative action, explain to them the essence of the investigative action, the procedure of its performance, and the rights, responsibilities, and liability of the participants.

3. Any violence, threats, and other unlawful actions, or any degrading and humiliating treatment in relation to a participant in an investigative action, or creating conditions dangerous for his life or health shall be prohibited.

4. The presence of persons of the opposite sex in an investigative action accompanied with undressing shall be prohibited, with the exception of an expert in the medical field. An investigative action accompanied with undressing may not be video recorded.

5. It shall be prohibited to disclose private information and secrets protected by law, which became known during an investigative action. An Investigator shall be obliged to warn the participants of an investigative action about the prohibition of disclosing the information mentioned in this Paragraph, which became known to them during the investigative action, and the liability prescribed for such disclosure.

6. The process and results of an investigative action shall be reflected in a Protocol that shall be prepared during the investigative action or immediately after its completion, in accordance with the procedure envisaged by Article 222 of this Code.

Article 219. Peculiarities of an Investigative Action Performed with the Participation of a Minor

1. A psychologist shall be engaged in the performance of an investigative action with the participation of a minor.

2. Before starting the investigative action, the rights of participating in the investigative action and stating comments shall be explained to the Lawful Representative and the psychologist. The right to ask questions with the Investigator's

permission shall also be explained to a Lawful Representative and a psychologist participating in an investigative action related to giving Testimony. The Investigator may remove the questions posed, but they shall, in any event, be incorporated in the Protocol.

3. The obligation to not give false Testimony shall be explained to a minor participating in an investigative action related to giving Testimony, who has not reached the age of 16 yet, but he shall not be warned of the criminal liability.

Article 220. Peculiarities of Investigative Actions Performed with the Participation of a Person Who is Deaf or Numb or Suffers from a Grave Illness

1. A translator who is capable of communicating with a deaf or numb person shall be engaged in an investigative action performed with the participation of such person.

2. An investigative action with the participation of a person who has a mental illness or other grave illness may be performed only with the written permission of a doctor. Such permission may also define a requirement of performing such investigative action in the presence of a doctor, and such requirement shall be binding for the Investigator.

Article 221. Use of Technical Means in the Performance of an Investigative Action

1. Audio and video recording may be made, photos taken, and impressions and trace stamps prepared for documenting the process of an investigative action and finding, documenting, and taking the traces of a crime and the Physical Evidence.

2. Before using technical means, the persons participating in the investigative action shall be notified thereof in advance.

3. In exceptional cases, when the performance of an investigative action under the general procedure stipulated by this Code is impossible, and the interest of justice so requires, the investigative action may be performed by video conference.

4. During an investigative action performed by video conference, the ability of the Investigator and the participants in the investigative action, which are located in a different place, to clearly hear and see one another shall be safeguarded.

5. Before starting an investigative action by video conference, the Investigator shall announce:

1) The place, day, and time of performing the investigative action, and information about the proceedings in which such investigative action is performed;

2) The name, surname, and position of the Investigator performing the investigative action;

3) The name, surname, and position of the competent person who is located in another place and is supporting the performance of the investigative action; and

4) The technical means used during the investigative action.

6. The person who is located in another place and is supporting the performance of the investigative action shall ensure that the identity of the participants in the investigative action is checked. At the end of the investigative action, the Investigator shall ask the participants in the investigative action whether they have any Objections concerning the procedure of performing or the course of the investigative action, and if any, shall ask to present them aloud.

7. At the end of the investigative action, the Investigator shall prepare a Protocol of the investigative action in compliance with the requirements of this Code. The Protocol of the investigative action shall be signed by Investigator and the participants located in the same place as the Investigator.

8. The Protocol of an investigative action performed by video conference may not be used during the Proving process without the electronic medium carrying the video recording of the respective investigative action.

Article 222. Protocol of an Investigative Action

1. The Protocol shall be handwritten or prepared using a computer. The Protocol shall specify:

1) The place (address) of performing the investigative action, the year, month, and day, and the time of starting and ending—precise to the minute;

2) The position and surname of the person who prepared the Protocol; and

3) The status, name, surname, patronymic, and, if necessary, address and other personal data of every person who participated in the investigative action.

2. The Protocol of the investigative action shall describe all the actions performed during it, in the sequence order in which they actually occurred. The Protocol shall specify the circumstances revealed during their performance, as well as the statements by participants in the investigative action.

3. The Protocol shall contain information about the technical means used during the investigative action, the procedure and terms of their use, the results

obtained, and information about warning the participants about the use of technical means.

4. The Protocol shall be presented to the persons that participated in the investigative action for familiarization. The right of such persons to make statements and comments regarding the Protocol and to demand corrections and additions to the Protocol shall be clarified to them. Corrections and additions made to the Protocol shall be signed by all the persons that participated in the investigative action.

5. The Protocol shall be signed by the Investigator and the persons participating in the investigative action.

6. If any participant in the investigative action refuses to sign the Protocol, such person shall be allowed to explain and state the reasons for such refusal. If he refuses to state in the Protocol the reasons for refusing to sign it, the Investigator shall mention this fact in the Protocol, which shall be confirmed by the signature of the Investigator and the signatures of the attorneys participating in the investigative action.

7. If a participant in an investigative action cannot sign the Protocol personally due to physical handicap or illiteracy, the Protocol shall be presented or announced to such person for familiarization by the Investigator and the attorneys participating in the investigative action, which shall sign to confirm the veracity of the Protocol content and the justification of why it cannot be signed.

8. If, in the cases specified in Paragraphs 6 and 7 of this Article, no attorney participates in an investigative action, the relevant facts shall be confirmed under the procedure envisaged by Paragraph 4 of Article 192 of this Code.

9. The Protocol shall also contain remarks about the clarification to the participants in the investigative action of their rights, responsibilities, and consequences of failure to carry them out, as well as the explanation of the essence and performance procedure of the investigative action in question, which shall be confirmed by the signatures of the participants in the investigative action.

10. For certain investigative actions, this Code may prescribe additional requirements concerning their Protocols.

Article 223. Annexes to the Protocol of an Investigative Action

1. The following numbered annexes shall be annexed to the Protocol of an investigative action:

1) The objects, documents, or other materials discovered or presented during the investigative action;

2) The digital media, video tapes, audio recordings, photographic negatives, and photographs documenting the process and results of the investigative action; and

3) The statements, charts, sketches, impressions, and trace stamps prepared or produced during the investigative action.

2. The materials mentioned in sub-paragraph 1 of Paragraph 1 of this Article shall be described in detail in the respective Protocol, packaged, and sealed.

3. The materials mentioned in sub-paragraphs 2 and 3 of Paragraph 1 of this Article may not be used without a Protocol, or when the integrity of data contained therein has been breached.

CHAPTER 30. INVESTIGATIVE ACTIONS

Article 224. The Questioning; Location and Duration of Questioning

1. The questioning is the determination of circumstances that are significant to the proceedings by means of posing questions to a witness, a Victim, an expert, the Accused, or an arrested person.

2. The questioning shall be performed at the place of performing the Preliminary Investigation or, if necessary, at the place where the questioned person is located. If, because of age or illness, the person cannot appear before the Body Conducting the Criminal Proceedings, the questioning shall be performed at the place where the questioned person is located.

3. The questioning may not last longer than four consecutive hours. If the person suffers from a mental illness or another grave illness, the questioning may not last longer than two consecutive hours. The questioning may be continued after giving the questioned person at least a one-hour break needed for rest and food. The total duration of the questioning per day may not exceed eight hours. In case of a minor or a person suffering from a mental illness or another grave illness, the total duration of the questioning per day may not exceed six hours.

4. Based on a medical statement, the questioning may be performed during a shorter time period than that envisaged by this Article.

Article 225. Questioning a Witness

1. A witness may be questioned concerning any circumstance of significance to the proceedings, including questioning concerning the Accused, the Victim, or other witnesses.

2. A witness shall be questioned separately from other persons being questioned. The Investigator shall take measures to ensure that persons subject to questioning within the same set of proceedings do not communicate with one another prior to the end of the questioning.

3. Before the questioning, the Investigator shall ascertain the identity of the witness, inform him the proceedings in respect of which he has been invited, and clarify that he or she is not obliged to give Testimony regarding himself or herself or his or her spouse or Close Relatives. The witness shall be warned of the obligation to provide truthful and complete responses, and the criminal liability for refusing or avoiding to give Testimony or for giving false Testimony. The witness shall also be informed that Testimony given by him may be used as Evidence during the Criminal Proceedings.

4. If a witness has appeared for questioning with an attorney, the attorney shall have the right to participate in the questioning and give short-term advice to the witness in the Investigator's presence about questions related to his status. The attorney shall ask the witness questions only with the Investigator's permission and shall have no right to comment his answers. In case of posing questions or performing actions that violate the rights of the witness under this Code, the attorney shall have the right to make statements that shall be incorporated in the Protocol of the questioning.

5. If a witness duly notified of his right to appear for the questioning with an attorney has appeared for the questioning without an attorney, the Investigator shall not be obliged to postpone the questioning on the basis of inviting an attorney.

6. When a witness is the Accused in another set of proceedings concerning the proceedings in which he is a witness, or a judgment has entered into legal force in respect of him, the questioning of such witness shall be performed under the rules prescribed for questioning an Accused.

Article 226. Questioning an Expert

1. An expert may be questioned in relation to checking or clarifying an opinion or conclusion presented by him, or in relation to facts perceived by him when supporting the performance of Proving Actions or other Actions of Proceedings.

2. Before the questioning, the Investigator shall ascertain the identity of the expert, inform him the proceedings in respect of which he has been invited, and warn him of the obligation to provide truthful and complete responses and the criminal liability for refusing or avoiding to give Testimony or for giving false Testimony. The witness shall also be informed that Testimony given by him may be used as Evidence during the Criminal Proceedings.

Article 227. Questioning a Victim

1. The questioning of a Victim shall be performed under the procedure stipulated by Paragraphs 1 to 3 of Article 225 of this Code.

2. After completing the questions, the Victim shall be offered to communicate also the circumstances that, in the Victim's opinion, may be of significance for the proceedings.

3. If a Victim has appeared for questioning together with his Authorized Representative, then he may participate in the questioning and give short-term advice to the Victim in the Investigator's presence about questions related to his status. The Authorized Representative may pose questions to the Victim, but may not comment his answers. The Investigator may withdraw the questions of the Authorized Representative, but they shall, in any event, be incorporated in the Protocol of the questioning. In case of posing questions or performing actions that violate the rights of the Victim under this Code, the Authorized Representative shall have the right to make statements that shall be incorporated in the Protocol of the questioning.

4. When a Victim also has the status of the Accused in the same set of proceedings, the questioning of such witness shall be performed under the rules prescribed by this Code for questioning an Accused.

Article 228. Questioning an Accused

1. An Accused may be questioned in respect of the Accusation presented to him or any circumstance of significance to the proceedings.

2. The Investigator shall be obliged to question the Accused within 48 hours of presenting the Accusation to him.

3. The Accused shall be questioned separately from other persons. The Investigator shall take measures to ensure that the Accused does not communicate with persons already questioned or subject to questioning within the same set of proceedings.

4. Before the questioning, the Investigator shall clarify to the Accused his right to be questioned with the participation of a Defender and give to the Accused the list of his rights and obligations under this Code, unless it was earlier given to the Accused. This fact shall be confirmed by the signature of the Accused. The Investigator shall also explain to the Accused his right to remain silent, clarify that exercise of such right may not be construed to his detriment, and inform that his Testimony may be used as Evidence during the Criminal Proceedings. If the Accused expresses a desire to give Testimony, the Investigator shall inform him of the obligation to give truthful Testimony and the liability prescribed for giving false Testimony. This fact shall be confirmed by the signature of the Accused.

5. Before posing questions, the Investigator shall determine whether the Accused pleads guilty as per the Accusation presented. After completing the questions, the Accused shall also be offered to communicate the circumstances that, in the opinion of the Accused, may be of significance to the proceedings.

6. If his Defender also participates in the questioning of the Accused, then the Defender shall have the right to give short-term advice to the Accused in the Investigator's presence about questions related to his status. The Defender may pose questions to the Accused, but may not comment his answers. The Investigator may withdraw the questions of the Defender, but they shall, in any event, be incorporated in the Protocol of the questioning. In case of posing questions or performing actions that violate the rights of the Accused under this Code, the Defender shall have the right to make statements that shall be incorporated in the Protocol of the questioning.

7. After the first questioning, the Accused may be questioned for the purpose of clarifying additional circumstances.

Article 229. Questioning an Arrested Person

1. An arrested person may be questioned on the basis of the ground envisaged by sub-paragraph 1 of Paragraph 1 of Article 108 of this Code under the procedure envisaged by Article 228 of this Code, taking into consideration the peculiarities prescribed by this Article.

2. An arrested person has the right to be questioned with the participation of a Defender.

3. Before the questioning, the arrested person shall be allowed, if he so wishes, to have a separate, confidential, and unhindered meeting with his Defender. If it is necessary to perform other Actions of Proceedings with the participation of the

arrested person, then the Investigator may limit the duration of such a meeting, giving advance notice thereof to the arrested person and his Defender. In any event, the duration of a meeting with the Defender may not be less than two hours.

Article 230. The Protocol of the Questioning

1. The Testimony of the questioned person shall be written down in the first person and, if possible, *ad literum*. The questions and the answers to them shall be written down in the sequence order in which they were posed during the questioning. The Protocol shall specify all the questions, including those that were not accepted by the Investigator, or which the questioned person refused to answer. The reasons for refusing to answer the questions shall be stated in the Protocol.

2. The questioned person shall have the right to write down his Testimony himself, about which the Investigator shall make a mention in the Protocol. After becoming familiar with the Testimony, the Investigator may ask him additional questions. The questions and the responses shall be incorporated in the Protocol.

3. If the questioned person presents Physical Evidence or documents during the questioning, or if Protocols of other Proving Actions are published, or if audio and/or video recording materials are reproduced, then it shall be mentioned in the Protocol of the questioning. The Protocol shall reflect the Testimonies of the person questioned in relation thereto.

4. If the questioned person has taken notes or prepared schemes, charts, or drawings during the questioning, then they shall be annexed to the Protocol, and it shall be mentioned in the Protocol.

5. After the end of the questioning, the Protocol shall be presented to the questioned person and other participants in the questioning for familiarization, or the Investigator shall publish the Protocol upon their request, about which mention shall be made in the Protocol. The Investigator may not reject statements on supplementing or making corrections in the Protocol.

6. The questioned person and the other participants in the questioning shall sign at the end of the Protocol to confirm the fact that they have become familiar with the Testimony and that the information recorded therein is correct. The questioned person shall also sign at the bottom of each page of the Protocol.

Article 231. Confrontation

1. Confrontation is the simultaneous questioning of two persons questioned earlier, in whose Testimonies there are material inconsistencies.

2. Confrontation shall be performed under the procedure defined by this Code for questioning, taking into consideration the peculiarities stipulated by this Article.

3. Before posing questions to the persons being confronted, the Investigator shall determine whether they recognize each other, and what relationship they have with one another. Thereafter, the Investigator shall ask the confronted persons questions clarifying the material inconsistencies between their Testimonies. After the Investigator has finished his questions, the confronted persons and, in the cases stipulated by this Code, persons that have the right to ask questions during the questioning may pose questions to the persons being confronted.

4. Publishing earlier Testimony of the confronted persons shall be permitted after they have given Testimony during the confrontation and they have been written down in the Protocol. If the confronted person exercises his right to remain silent, as prescribed by this Code, then it shall be done after making mention thereof in the Protocol.

5. The confrontation Protocol shall be prepared in accordance with the requirements of Article 230 of this Code.

Article 232. Checking Testimony on the Spot

1. Checking Testimony on the spot is the clarification, by an arrested person, an Accused, a Victim, or a witness questioned earlier, of his Testimony at a place where the events described in such Testimony have taken place.

2. Before starting to check Testimony on the spot, an Investigator shall first offer to the person questioned earlier to show the place where the Testimony will be checked, and, thereafter, to reproduce the Testimony subject to checking on the spot, whilst concurrently performing certain actions and pointing out traces, objects, and documents of significance to the proceedings.

3. It shall be prohibited to check the Testimonies of more than one person concurrently at the same place.

4. After documenting the results of checking the Testimony on the spot, if there is an inconsistency between the earlier Testimony and the results of its on-spot check, the Investigator shall have the power, for the purpose of determining the reason for the inconsistency, additionally to question the person who gave Testimony.

Article 233. Inspection

1. Inspection is the visual observation of a site, building, vehicle, object, document, animal, or human or animal corpse for the purpose of determining circumstances of significance to the proceedings and finding traces of the alleged crime, and other physical objects.

2. Inspection in a House, with the exception of the initial inspection of an Incident Scene, may be performed only if there is an appropriate Court decision.

3. During the inspection, objects subject to inspection may be made accessible for visual observation using technical means. Moreover, measurements of the inspected site or specific objects may be taken, and floor plans, schemes, and drawings compiled. This fact shall be mentioned in the Protocol, and the prepared specific documents shall be annexed to the Protocol.

4. If possible, the inspection of a site, building, object in their territory, or vehicle shall be performed in the presence of its owner or his representative.

5. The inspection of a corpse or parts thereof shall be performed with the participation of an expert in the medical field. Unrecognized corpses shall be subject to photographing and fingerprinting.

6. During the inspection of computer software, websites, and automated data, the Investigator shall make computer copies of the inspected objects, prepare their paper copies, and mention it in the Protocol. Paper copies, which are the result of documenting, shall be signed by the participants in the inspection, and annexed to the Protocol together with the computer copies.

7. During the inspection, the Investigator may, himself or with the help of an expert, take traces, objects, and documents, as well as other objects that can have evidentiary significance. In any event, the Investigator shall take the objects or documents taken out of circulation under the legislation, regardless of their relationship to the proceedings at hand.

8. The inspection of objects discovered during the examination of other investigative actions shall be performed during such investigative actions, and the results of the inspection shall be documented in the Protocol of the respective investigative action.

Article 234. Examination

1. Examination is a visual overview performed for the purpose of determining the presence of traces of crime or special marks on the body of an Accused, a Victim, or a witness. The Investigator may perform an examination, unless it requires a forensic medical expert examination.

2. When the Investigator does not have the power to be present in an examination accompanied with undressing, an expert in the medical field shall, by Instruction of the Investigator, determine whether traces of crime special marks are present on the body of the examined person. The expert shall reflect the results of such an examination in a statement that shall be annexed to the Protocol in the form of an annex.

Article 235. Experimentation

1. Experimentation is the performance of experiments and other research actions for the purpose of checking any circumstance of significance to the proceedings.

2. The conditions of performing experimentation shall be as close as possible to the circumstance being checked. To avoid a random outcome, the experiments and research actions making up the experimentation substance may be performed several times.

Article 236. Recognition

1. Recognition is the presentation of a person or object to an Accused, a Victim, or a witness for perception with the aim of determining the identity of such person or object (object, document, or corpse).

2. Prior to recognition, the Investigator shall first question the recognizing person about the features of the person, object, or document being recognized, and about the circumstances under which the recognizing person perceived such person, object, or document.

3. Recognition shall not be performed, and recognition performed shall not be deemed legitimate, if the recognizing person stated, while being questioned, features that are so uncertain that they are insufficient for identifying the person, object, or document being recognized.

4. Repeat recognition shall be prohibited.

5. The recognition Protocol shall contain a description of all the persons or objects presented for recognition, as well as the features by means of which recognition was made.

Article 237. Recognition of a Person

1. A person may be recognized by his external features, functional peculiarities, or voice.

2. A person shall be presented for recognition together with at least three other persons of the same sex that resemble him as much as possible by appearance and clothing. Recognition by voice shall be performed with the participation of three other persons whose voice resembles, as much as possible, the voice of the person being recognized. The conditions of recognition shall be as close as possible to the conditions in which the recognizing person perceived the person presented for recognition.

3. If it is impossible to present a person for recognition, the recognition may be performed using the photos or video audio recordings of at least three other persons that resemble the person being recognized as much as possible in terms of the relevant features.

4. Immediately before starting the recognition, the Investigator shall offer to the person being recognized to take any place of his choice among the other persons. Then, the recognizing person shall be offered to point out the person whom he can recognize and explain the features by which he recognized such person.

5. The recognition of the person may, at the Investigator's initiative or the desire of the recognizing person, be performed outside the sight of the person being recognized.

Article 238. Recognition of an Object, Document, or Corpse

1. The object subject to recognition shall be presented to the recognizing person with at least three other similar objects. If it is hard or impossible to find objects similar to the object being recognized, then its recognition shall be performed on the basis of one presented sample. The recognition of a document and corpse or parts thereof shall also be performed on the basis of one presented sample.

2. Before presenting an object for recognition, it can be cleaned from dirt, rust, and other incidental materials.

3. If a human corpse is being recognized, and the recognizing person has seen the person alive, then it shall be permitted to apply makeup on the deceased person.

4. The recognizing person shall be offered to point out the object or document that he can recognize and to explain the features by which he recognized it.

Article 239. Demand for Information

1. A demand for information is an Investigator's written application to state or local government bodies, legal entities, or any organization possessing information about circumstances of significance to the proceedings.

2. A demand for information shall be binding for its addressee, with the exception of cases in which the demanded information is a secret protected by law, or when certain documents, objects, or other materials are demanded.

3. The requested information shall be provided during the time period set by the Investigator in the form of a statement, which shall be annexed to the Protocol of the demand for information.

Article 240. Taking Documents or Objects

1. The taking of documents or objects is the Investigator's act of annexing to the materials of the proceedings the objects or documents of significance to the proceedings, which have been presented by any person. The Investigator shall be obliged to annex to the materials of the proceedings presented by the Private Participants in the Proceedings.

2. In case of annexing an object or document to the materials of the proceedings, a Protocol shall be prepared, which shall describe the presented object or document and state the Explanation of the presenting person about the circumstances in which he acquired it.

3. If an object or document is presented during an investigative action, the information mentioned in Paragraph 2 of this Article shall be incorporated in the Protocol of the respective investigative action.

Article 241. Search

1. A search is the act of looking for objects, materials, or documents of significance to the proceedings, which are held by any person or are located in any

place or building, as well as the act of looking for an Accused who is hiding from the investigation, or property subject to seizure or a corpse.

2. A search in a House may be performed only if there is an appropriate decision of a Court.

3. An Investigator's decision on performing a search shall contain a brief overview of the alleged crime, in respect of which the performance of the search is necessary, as well as the searched object and the time and place of performing the search.

Article 242. Persons Participating in a Search

1. The presence of the person or adult member of his family, in whose premises the search is being performed, shall be ensured during the performance of the search. If the presence of such persons is impossible, or if they avoid being present during the search, the search shall be performed in the presence of a representative of the condominium or local government body.

2. A search in a building or site owned by a legal entity, institution, or military detachment shall be performed in the presence of its representative. If the presence of a representative of the legal entity or institution is impossible, the search shall be performed in the presence of a representative of the local government body.

3. A search in a House of the Accused or any building or site owned or possessed by the Accused shall be performed in the presence of the Accused, unless the whereabouts of the Accused are unknown, or the Accused refuses or avoids participating in the search, or there are objective reasons hindering his presence, or notification of the Accused about the search in advance for the purpose of securing his presence may result in loss or damage of the Evidence expected as a result of the investigative action in question.

4. If the Defender of the Accused has become aware of a search performed in the House of the Accused or any building or site owned or possessed by the Accused, and has expressed his wish to be present at the search, then his access and presence may not be hindered.

5. Persons present at the search shall have the right to observe the Investigator's actions and make statements that shall be incorporated in the Protocol. Persons present at the search shall not, prior to the end of the search, have the right to leave the search performance site without the Investigator's permission.

Article 243. Procedure of Performing a Search

1. The Investigator and the persons participating in the investigative action shall, based on the decision on performing a search, enter the building or site where the search is to be performed.

2. Prior to performing the search, the Investigator shall be obliged to familiarize the person, in whose premises the search is being performed, with the decision and deliver a copy of the decision to him. His signature about it shall be taken.

3. After delivering a copy of the search decision and publishing the decision, the Investigator shall offer to present the searched objects or the Accused who is hiding. If they are presented voluntarily, then the searching actions shall not be performed. Otherwise, the search shall continue.

4. When performing a search, the Investigator shall have the right to open closed Houses, buildings, and storages, if the person concerned refuses to open them voluntarily. The Investigator shall take measures to preclude or minimize potential damage to locks, doors, and other objects.

5. In addition to what is specified in the search decision, the Investigator shall also take all the objects discovered during the search, which by law are taken out of circulation or, in terms of their nature, differentiating marks, or traces thereon, may be linked with another alleged crime.

6. All actions of the person or persons performing a search shall be visible to those present during the search.

7. The Investigator may prohibit the persons present at the search site to leave such site or to communicate with one another and other persons until the search is over.

8. All objects taken shall be presented to the participants of the investigative action and, if necessary, packaged and sealed with the Investigator's seal.

Article 244. Search of a Person

1. The search of a person shall be performed when there are sufficient grounds to assume that objects, materials, or documents related to the alleged crime may be present in the person's clothing, items possessed by him, or on his body.

2. The following persons may be searched without a specific decision:

1) A person suspected of a crime—at the moment of his *de-facto* deprivation of liberty for the purpose of bringing before an Inquiry Body or a Body Conducting the Criminal Proceedings and/or immediately after bring before them;

2) An Accused—at the moment of his *de-facto* deprivation of liberty in the cases envisaged by this Code;

3) A person participating in a legitimate search in a House or other place, if, during such search, grounds emerge for reasonably assuming that such person may be possessing objects, materials, or documents for the discovery of which such search is being performed, or objects that reasonably indicate the commission of the alleged crime.

3. When an Investigator may not be present in a search of the person accompanied by undressing, the search for objects, materials, or documents related to the crime in the clothes or on the body of the person being searched shall, by Instruction of the Investigator, be performed by an expert in the medical field or an Investigator or Inquiry Officer of the same sex as the person being searched.

Article 245. Search Protocol

1. Everything that is taken during a search shall be mentioned in a Protocol of the investigative action, specifying precisely their quantity, size, weight, individual features, and other peculiarities.

2. If the searched objects or persons have surrendered or been surrendered voluntarily, then such fact shall be mentioned in the Protocol. If attempts at destroying or hiding the searched or discovered objects were made during the search, then such fact shall be mentioned in the Protocol.

3. If the search for objects, materials, or documents during the search of a person was carried out by another person based upon the Investigator's Instruction, then the statement prepared by such person on the results of the search shall be annexed to the Protocol.

4. A copy of the search Protocol shall be delivered to the person in whose premises the search was performed, or to an adult member of his family, against their signature, or, in case of their absence, to the condominium or local self-government body representative who participated in the search. If the search was performed in the premises of a legal entity, institution, or military detachment, a copy of the Protocol shall be delivered to its representative.

Article 246. Seizure

1. Seizure is the taking of certain objects, materials, or documents upon the Investigator's initiative, which are of significance to the proceedings and are located in a definitely known place or are held by a specific person.

2. Objects in a House, as well as documents or objects containing banking secrets, notary secrets, insurance secrets, and securities market service secrets may be seized only if an appropriate Court decision is present.

3. Documents containing state secrets may be seized only with the Prosecutor's permission, in a procedure agreed upon with the head of the respective state body.

4. In case of performing seizure by an Investigator's decision, the decision shall contain a brief overview of the alleged crime in respect of which the performance of the seizure is necessary, as well as the object to be seized and the time and place of performing the seizure.

5. Based on the decision to seize, the Investigator and the persons participating in the investigative action shall enter into the building or site where the seizure is to be performed.

6. Before making the seizure, the Investigator shall be obliged to familiarize the person, in whose premises the seizure is made, with the decision and to deliver a copy of the decision to him. His signature about such fact shall be taken.

7. After delivering a copy of the seizure decision and publishing the decision, the Investigator shall offer to present the object subject to seizure. In case of failing to present documents or objects containing banking secrets, notary secrets, insurance secrets, or securities market service secrets, the Investigator shall have the power to perform searching actions for the purpose of discovering them. In other cases, the performance of searching actions on the basis of a seizure decision shall be prohibited.

8. If the object or document subject to seizure is in the materials of other criminal, judicial, or administrative proceedings, then a photo of the object or a copy of the document, signed by the person conducting the proceedings, shall be given to the Investigator. The original of the object or document may be given to the Investigator only for the purpose of performing an expert examination.

9. All seized objects shall be presented to the participants in the investigative action, described in detail in the Protocol and, if necessary, packaged and sealed with the Investigator's seal.

10. A copy of the seizure Protocol shall be delivered to the person in whose premises seizure was made or to an adult member of his family, against their signature. If the seizure was made in the premises of a legal entity, institution, or detachment, then a copy of the Protocol shall be delivered to its representative.

Article 247. Exhumation

1. Exhumation is opening of a burial site for the purpose of determining whether a corpse is present in a particular place, discovering objects of significance to the proceedings, which were buried with the deceased, examining such objects and presenting them for recognition, taking samples for analysis, and performing expert examinations.

2. The Investigator's decision on performing exhumation shall contain a brief overview of the alleged crime in respect of which the exhumation is to be performed, as well as information about the deceased, the circumstances justifying the need for exhumation, the purpose of the exhumation, and the time and place of performing it.

3. The Investigator shall deliver to a Close Relative of the deceased the decision on exhumation and the notification about the right to appeal it and the time period and procedure of such appeal. Prior to performing the exhumation, the Close Relative of the deceased shall have the right to appeal the Investigator's decision on exhumation to the supervising Prosecutor within a three-day period of delivering the decision to a Close Relative of the deceased.

4. In case of appealing the Investigator's decision on exhumation to the supervising Prosecutor, the exhumation may not be performed until the resolution of the appeal by the supervising Prosecutor.

5. Exhumation shall be performed with the participation of the Investigator, an expert in the field of forensic medicine and, if necessary, other experts, as well. The presence of a representative of the cemetery administration shall be binding. A Close Relative of the deceased also shall have the right to participate in the exhumation.

6. After the exhumation, the corpse may be taken to the relevant medical institution for performing the investigative actions envisaged by Paragraph 1 of this Article.

CHAPTER 31. GENERAL RULES ON THE PERFORMANCE OF UNDERCOVER INVESTIGATIVE ACTIONS

Article 248. Undercover Investigative Actions

The following are the undercover investigative actions:

- 1) Indoors surveillance;
- 2) Outdoors surveillance;
- 3) Monitoring of mail correspondence and other non-digital communication;
- 4) Monitoring of digital, including telephone communication;
- 5) Monitoring of financial transactions; and
- 6) Simulation of taking or giving a bribe.

Article 249. Ground and Conditions of Performing Undercover Investigative Actions

1. An undercover investigative action may be performed only when there are sufficient grounds to assume that it may result in obtaining Evidence of significance to the proceedings at hand, and, at the same time, obtaining such Evidence in other ways is reasonably impossible.

2. An undercover investigative action shall be performed by an Investigator's Instruction based on a Court decision.

3. Undercover investigative actions may be performed in proceedings related to grave and particularly grave alleged crimes, or, in the case envisaged by Paragraph 4 of Article 256 of this Code, also in proceedings related to non-grave and medium-gravity alleged crimes.

4. The list of special technical means used during the performance of undercover investigative actions shall, by presentation of the authorized state body, be approved by the Government of the Republic of Armenia.

Article 250. Safeguards of the Lawfulness of Undercover Investigative Actions

1. If information, materials, and documents concerning a person were obtained during the performance of an undercover investigative action, obtaining which was not contemplated by the decision on performing such action, then they may not be used as Evidence in the Criminal Proceedings and shall be subject to destruction, unless the Inquiry Body has acted in good faith. A separate Protocol shall be prepared on such information, materials, and documents.

2. The undercover investigative actions envisaged by Paragraphs 1 to 4 of Article 248 of this Code may be performed:

1) In respect of a person concerning whom there are facts indicating the commission of the alleged crime;

2) In respect of an Accused; or

3) In respect of a person concerning whom there is a justified assumption that he regularly directly communicated with or may reasonably communicate with an Accused.

3. The undercover investigative actions envisaged by Paragraph 5 of Article 248 of this Code may be performed only in respect of an Accused.

4. The undercover investigative actions envisaged by Paragraph 6 of Article 248 of this Code may be performed in respect of a person concerning whom there are facts indicating the commission of an alleged crime.

5. Regardless of status, the total duration of performing any undercover investigative action envisaged by Paragraphs 1 to 5 of Article 248 of this Code in respect of the same person may not exceed 12 months. Every time, the Court's permission may be granted for a term not exceeding three months.

6. An undercover investigative action shall be terminated if:

1) The need for it has ceased;

2) The Preliminary Investigation has ended; or

3) The time period set by decision of the competent Court or the total duration of the performance of an undercover investigative action have expired.

7. It shall be prohibited to perform the undercover investigative actions envisaged by Paragraphs 1 to 4 of Article 248 of this Code, if the person in respect of whom such action is to be performed communicates with his attorney or his designated confession priest. In any event, information obtained as a result of monitoring such communication shall be destroyed immediately.

8. The undercover investigative actions envisaged by Paragraph 6 of Article 248 of this Code may be performed only once in respect of the same person on the basis of a statement made by the same person.

9. The special technical means used during the performance of undercover investigative actions shall not harm human life or health or the environment.

10. It shall be prohibited for state bodies, units, natural persons, or legal entities not authorized under this Law to perform undercover investigative actions or to

use special technical and other means designated for obtaining secret information (designed, programmed, or tailored).

Article 251. An Investigator's Instruction to Perform an Undercover Investigative Action

1. The Instruction to perform an undercover investigative action shall be given in writing and shall contain information about the Criminal Proceedings in the frameworks of which such undercover investigative action is to be performed, information about the person giving the Instruction and the entity carrying out the Instruction, the undercover investigative action type to be carried out, the conditions and duration of performance, and information about when and to whom its results are to be presented.

2. A copy of the Court decision to permit performing the undercover investigative action shall be annexed to the Instruction to perform the undercover investigative action.

Article 252. Protocol of an Undercover Investigative Action

1. The process and results of an undercover investigative action shall be documented by the official performing it. The Protocol shall contain the place, time, and circumstances of performing the undercover investigative action, the names, surnames, and positions of the Inquiry Officer performing the undercover investigative action or other participants in the undercover investigative action, and the names and surnames of the persons (or their Lawful Representatives) that are subject to the information obtained as a result of the undercover investigative action, and all the actions undertaken during the undercover investigative action in the sequence order in which they were performed, the scientific-technical methods and means used, and the information, materials, and documents obtained as a result of the action. The Protocol shall be signed by the official/s performing the undercover investigative action.

2. The Protocol on monitoring telephone communication shall reproduce, *ad litterum*, the part of the audio recording that concerns the case.

3. Photographic negatives and photos, digital information media, audio and video tapes, slides, sketches, and plans compiled or prepared during the action shall be annexed to the protocol of the undercover investigative action.

4. The names, surnames, and positions of the official performing the undercover investigative action and of other participants in the undercover investigative

action do not have to be mentioned in the Protocol, if doing so might expose the undercover staff of the Inquiry Bodies or persons secretly collaborating with such Bodies.

5. The Inquiry Body shall transfer the Protocol of the undercover investigative action to the Investigator who gave the Instruction to perform such action. The Protocol may not be transferred to other bodies or persons.

CHAPTER 32. UNDERCOVER INVESTIGATIVE ACTIONS

Article 253. Indoors Surveillance

Indoors surveillance is the surveillance of a person and the monitoring of certain cases and events in a House with or without special and other technical means, with or without audio or video recording or photographing, documenting the results of the surveillance on paper or other media.

Article 254. Outdoors Surveillance

Outdoors surveillance is the surveillance of a person and the monitoring of certain cases and events in an open area or public space, without limiting the privacy of a House, with special and other technical means, with video recording or photographing, documenting the results of the surveillance on paper or other media.

Article 255. Monitoring of Mail Correspondence and Other Non-Digital Communication

1. Monitoring of mail correspondence and other non-digital communication is the examination of letters and mail, telegraph, and other non-digital messages being conveyed, including parcel posts, parcels, postal containers, and fax, including their contents, with or without use of technical means, with documentation of its results and/or seizure of such communications.

2. When performing an undercover investigative action envisaged by this Article, telecommunications and postal organizations shall be obliged, when demanded by the competent bodies, to provide technical systems and to create other conditions necessary for the performance of this undercover investigative action.

Article 256. Monitoring of Digital, including Telephone Communication

1. The monitoring of digital, including telephone communication is the secret collection and storage of the data envisaged by Paragraph 2 of this Article using special and other technical means by the natural persons or legal entities controlling them.

2. The following shall be subject to monitoring of digital, including telephone communication:

1) In case of fixed or mobile telephony—the telephone numbers of the communicating parties, the contents of the telephone conversation, the individual data of the telephone number subscriber, the starting date of the telephone communication, the starting and ending times, data necessary for determining the whereabouts and movement of the communicating parties at the starting time and during the telephone communication, the number to which the telephone call has been forwarded—in case of forwarding or transfer of telephone calls, and the contents of short text messages (SMS) and voice messages; and

2) In case of Internet communication, including Internet telephony communication and electronic messages transferred through the Internet—the contents of the communication, the geographic location, day, time, and duration of entering and exiting the Internet, the Internet user's or subscriber's name and user ID, the telephone number used to connect to the common telephone network, the Internet address, including the Internet Protocol (IP) address, the name of the Internet telephone call recipient and his personal identification data.

3. The following are the methods of monitoring digital, including telephone communication:

1) In case of the fixed telephone network:

a. Audio recording of the telephone communication or other methods of documenting its contents;

b. Determination of the telephone number;

c. Collecting and/or documenting the individual data of the subscriber of a particular telephone number, and the data necessary for determining the whereabouts and movement of the communicating parties at the starting time and during the telephone communication;

d. In case of forwarding or transferring the telephone call—determination of the telephone number to which the call was forwarded;

2) In case of the mobile telephone network:

- a. Audio recording or otherwise documenting the contents of telephone communication, including short text messages (SMS) and voice messages; and
 - b. Collecting and/or documenting the telephone communication starting date, beginning and end, telephone number, individual data of the subscriber of a particular telephone number, and the data necessary for determining the whereabouts and movement of the communicating parties at the starting time and during the telephone communication;
- 3) In case of Internet communication, including Internet telephone communication and electronic messages transferred through the Internet:
- a. Audio recording of the communication or otherwise documenting its contents;
 - b. Collecting and/or documenting data through which it is possible to determine the geographic location, day, time, and duration of entering and exiting the Internet, including the Internet Protocol (IP) address, the name and user ID of the subscriber or Internet user, the telephone number through which he connects to the common telephone network, the Internet address, the name of the recipient of the Internet telephone call or any other data concerning facts, incidents, or circumstances related to such person in a form that allows or could allow identifying such person;
- 4) Secret storage of the data envisaged by Paragraph 2 of this Article by natural persons or legal entities controlling it.

4. The actions envisaged by sub-paragraphs 1(b), 1(c), 1(d), 2(b), 3(b), and 4 of Paragraph 3 of this Article may also be performed in proceedings related to non-grave and medium-gravity crimes prescribed by Paragraph 2 of Article 158, Article 181, Articles 251 to 257, and Paragraphs 2 and 3 of Article 263 of the Criminal Code of the Republic of Armenia.

5. In case of the action envisaged by sub-paragraph 4 of Paragraph 3 of this Article, the stored data shall be immediately destroyed, unless they have been taken by the Inquiry body within 90 days of rendering the relevant Court decision.

6. When performing an undercover investigative action prescribed by this Article, telecommunications organizations shall be obliged, when demanded by the competent bodies, to provide technical systems and to create other conditions necessary for the performance of the undercover investigative action.

Article 257. Monitoring of Financial Transactions

1. The monitoring of financial transactions is the secret observation of financial transactions carried out through banks or other financial institutions.

2. When performing the undercover investigative action envisaged by Paragraph 1 of this Article, banks and other financial institutions shall be obliged, when demanded by the competent bodies, to create the conditions necessary for the performance of the undercover investigative action.

Article 258. Simulation of Taking or Giving a Bribe

1. Simulation of taking or giving a bribe may be performed only for solving a crime of receiving or giving a bribe, only on the basis of a written statement who received an offer of receiving or giving a bribe.

2. For the purposes of this Code, the terms “receiving a bribe” and “giving a bribe” as used in Paragraph 1 of this Article shall have the meaning prescribed for them by the Criminal Code of the Republic of Armenia.

3. The results of the undercover investigative action envisaged by Paragraph 1 of this Article may be confirmed only by means of video recording.

CHAPTER 33. EXPERT EXAMINATIONS

Article 259. Purpose and Scope of Expert Examinations

1. An expert examination shall be performed when the determination of circumstances of significance to the proceedings requires special knowledge in a field of science, technology, arts, crafts, or in another field, including the field of the relevant research methodology.

2. An expert examination shall be performed regardless of whether or not the other Persons Engaged in the Proceedings have special knowledge.

3. An expert examination in respect of a witness or a Victim may be performed only with their consent or the consent of their Lawful Representative, save for the cases stipulated by Paragraphs 1 to 4 of Article 107 of this Code.

Article 260. Basis of Performing an Expert Examination

1. An expert examination shall be performed on the basis of an Investigator’s decision.

2. The decision to order an expert examination shall specify:
 - 1) A brief overview of the alleged crime in relation to which the expert examination is to be performed;
 - 2) Data substantiating the need to perform an expert examination;
 - 3) The name of the expert institution or the name and surname of the person that is instructed to perform the expert examination;
 - 4) The questions posed to the expert; and
 - 5) The materials of the proceedings, which are necessary for the expert examination and are provided to the expert.

Article 261. Taking Samples for an Expert Examination

1. Before ordering an expert examination or during its performance, an Investigator or, upon his Instruction, the expert shall have the right to take samples characterizing the features of a human being, a corpse, an animal, a material, or any object, if such samples are necessary for the performance of an expert examination.

2. The following may be samples:
 - 1) Blood, sperm, hair, nail cuts, and microscopic skin scrapings;
 - 2) Saliva, sweat, and other excretions;
 - 3) Stampings of skin lines and molds of teeth and extremities;
 - 4) Handwriting, signature, and other materials expressing human skill;
 - 5) Audio recording;
 - 6) Test samples of finished products, raw materials, and materials;
 - 7) Weapons, capsules, bullets, and balls; and
 - 8) Other materials and objects.

3. The decision to take a sample for expert examination shall be taken by the Investigator. The decision shall contain:

- 1) The name, surname, and position of the person taking the sample;
- 2) If the sample is taken from a person—his name, surname, and status;
- 3) If the sample is taken from a material or another object—its location and other relevant information about it;
- 4) The type, size, or quantity of the sample to be taken;
- 5) If the sample is received from a person—the time and place of his appearance for providing the sample; and
- 6) The purpose of taking the sample.

4. In accordance with the procedure stipulated by this Code, the Investigator shall invite the person or shall go where the person is, familiarize the person, against his signature, with the decision to take a sample, and explain his rights and obligations.

5. The Investigator or, upon his Instruction, the expert shall, with the participation of procedure observers, perform the actions necessary to take the sample. Samples, with the exception of documents, shall be packaged and sealed.

6. Save for samples taken from a human being, the Investigator may also take samples for expert examination during an investigative action.

7. A Protocol shall be prepared about taking a sample for an expert examination. The Protocol shall contain the data envisaged by Article 222 of this Code and describe the samples taken. The samples taken shall be properly packaged, sealed, and annexed to the Protocol.

Article 262. Rights of Concerned Persons in Relation to the Performance of an Expert Examination

1. A Private Participant in the Proceedings shall have the following rights in relation to the performance of an expert examination:

1) Prior to the performance of the expert examination, to become familiar with the Investigator's decision to order an expert examination and to obtain clarification of his rights under this Article;

2) To express a Recusal to the expert;

3) To file a Petition on a person specified by him to be appointed as an expert, substantiating that such person is professionally competent;

4) To pose additional questions to the expert;

5) With the Investigator's permission and the expert's consent, to be present during the performance of the expert examination;

6) To provide Explanations to the expert;

7) To obtain a copy of the expert's conclusion within 10 days of sending such conclusion to the Investigator;

8) To file a Petition on questioning the expert or ordering an additional expert examination or a repeat expert examination; and

9) To take part in the expert's questioning performed on the basis of his Petition.

2. The following persons shall also exercise the rights prescribed by Paragraph 1 of this Article:

- 1) Persons in relation to whom the issue of applying compulsory medical measures is to be solved, if the mental state of such person allows exercising such rights; and
- 2) Any other person to whose legitimate interests the expert examination is obviously related.

Article 263. Procedure of Performing an Expert Examination

1. An expert examination shall be performed by an expert of an expert institution or an expert who is not an expert of an expert institution.
2. If the expert examination is performed in an expert institution, then the decision ordering an expert examination and the annexed materials shall be sent to the head of such institution by the Investigator. In this case, the expert examination shall be performed by the expert mentioned in the decision or, if none is mentioned, by the expert institution's expert who is assigned by the head of such institution to perform such expert examination.
3. The head of an expert institution shall organize the performance of the expert examination during the defined time period, but shall not have the right to give the expert Instructions predetermining the course of the research or the content of the inferences.
4. If the expert examination has been assigned to a person who is not an expert in any expert institution, then the Investigator shall invite such expert, ascertain his identity, and deliver to him the decision ordering an expert examination and the annexed materials.
5. The Investigator or, upon his Instruction, the head of the expert institution shall familiarize the expert with his rights and obligations under this Code, and warn him of liability prescribed for refusing or avoiding to issue a conclusion or for issuing an obviously false conclusion.
6. The Investigator may be present at the performance of the expert examination and to obtain from the expert clarifications regarding his actions.
7. Upon the expert's request, the Investigator shall be obliged, within the limits of his authority, to render the necessary assistance to the expert for ensuring the due course of the expert examination.

Article 264. Expert Examinations by a Commission and Complex Expert Examinations

1. In view of the difficulty of an expert examination, an Investigator may order an expert examination by a commission, which shall be performed by a number of experts having special knowledge and skills in the same field.

2. If the determination of any circumstance of significance to the proceedings is possible only through the simultaneous application of special knowledge or skills in different fields or methods of different fields of research, then the Investigator shall order a complex expert examination.

3. If the performance of an expert examination is assigned to an expert institution without demanding an expert examination by a commission or a complex expert examination, then the head of the institution may, with the Investigator's consent, organize an expert examination by a commission or a complex expert examination.

4. If the expert institution does not have experts having special knowledge or skills in the respective field, then the Investigator shall, by recommendation of the head of the expert institution, render an additional decision defining a list of experts engaged in the complex expert examination.

Article 265. Additional and Repeat Expert Examinations

1. If the expert's conclusion is incomplete or uncertain, the Investigator may order an additional expert examination, assigning its performance to the same expert or to a different expert.

2. If the expert's conclusion is not substantiated, or the experts that performed an expert examination in a commission have not reached a consistent conclusion, or if the Evidence used during the expert examination has been declared inadmissible, or if the procedure of performing an expert examination has been violated, the Investigator may order a repeat examination, assigning its performance to a different expert. When ordering a repeat expert examination, the expert may be asked a question about the scientific justification of the methods applied during the previous examination.

3. The expert that performed the previous examination may, with the Investigator's consent, be present at the performance of the additional or repeat expert examination and provide clarifications. However, he shall not participate in the performance of the examination actions and the compilation of the conclusion.

Article 266. Conclusion of an Expert

1. After performing the necessary tests, the expert shall compile a written conclusion confirmed by his signature, which shall be sent to the Investigator.

2. The expert's conclusion shall state:

- 1) The time and place of performing the expert examination;
- 2) The expert's name and surname and information confirming his professional competence;
- 3) The basis for performing the expert examination;
- 4) The type of the expert examination;
- 5) The materials of the Criminal Proceedings used during the performance of the expert examination, including the Physical Evidence, samples, and other objects;
- 6) The persons that participated in the performance of the expert examination;
- 7) A description of the examinations performed and the methods used;
- 8) Justified answers to the questions posed; and
- 9) Circumstances that emerged during the examination, which, in the expert's opinion, may be of significance to the proceedings.

3. If the questions posed to the expert lie outside the scope of his special knowledge and skills, or if the presented materials are not sufficient for answering such questions, then the expert's conclusion shall contain justification of the impossibility of answering all or some of the questions posed.

4. In case of reaching a common inference when performing an expert examination by a commission, the conclusion shall be signed by all the experts that performed the expert examination. In case of disagreement, each expert shall prepare a separate conclusion, which shall cover the all the issues or the issues that caused disagreement.

5. Based on the combination of the circumstances discovered during the complex expert examination, each expert shall participate in the compilation of the common conclusion within the limits of his special knowledge and skills. Each expert shall sign the part of the complex expert examination conclusion, which falls within his academic competence.

6. The materials of the Criminal Proceedings, including the Physical Evidence, samples, and other objects and, if necessary, schemes, charts, photos, and

audio and video recordings clarifying and justifying the expert's inferences shall be annexed to the expert conclusion.

PART THREE: THE COURT PROCEEDINGS

SECTION 8. GENERAL CONDITIONS ON COURT PROCEEDINGS

CHAPTER 34. JURISDICTION

Article 267. Subject-Matter Jurisdiction

1. All proceedings conducted under the first instance procedure shall fall under the jurisdiction of the first instance Courts.
2. All proceedings in which an appeal for review has been lodged against a Judicial Acts of a first instance Court shall fall under the jurisdiction of the appellate criminal Court.
3. All proceedings in which an appeal for review has been lodged against a Judicial Act of the appellate criminal Court shall fall under the jurisdiction of the criminal chamber of the cassation Court.

Article 268. Territorial Jurisdiction

1. A first instance Court shall have jurisdiction over proceedings that concern crimes allegedly committed in the judicial territory of such Court, regardless of the investigative prerogative rules.
2. The proceedings related to a crime allegedly committed in the territory of another state shall fall under the jurisdiction of the Court the judicial territory of which includes the last known place of residence of the Accused or, if it cannot be determined, then the Court the judicial territory of which includes the residence of the Preliminary Investigation body that was the last to conduct the Pre-Trial Proceedings.
3. Territorial jurisdiction may be changed with the agreement of all of the Accused, if the majority of the Private Participant in the Proceedings and the witnesses reside in the judicial territory of another first instance Court. A decision on changing jurisdiction shall be rendered by the Court examining the case.
4. Proceedings related to judicial safeguards shall fall under the jurisdiction of the Court of the place of residence of the Preliminary Investigation body conducting the Pre-Trial Proceedings or the Court of the place where the respective Action of Proceedings is performed.

Article 269. Jurisdiction when Merging Proceedings

1. If two or more sets of proceedings subject to the jurisdiction of different first instance Courts have been merged in the Pre-Trial Proceedings, then the Accusation shall be examined by the Court the judicial territory of which includes the residence of the Preliminary Investigation body that was the last to conduct the Pre-Trial Proceedings.

2. If two or more sets of proceedings subject to the jurisdiction of different first instance Courts have been merged, then the Accusation shall be examined by the Court that was the first to admit the Criminal Case File into proceedings.

Article 270. Transfer of Proceedings by Jurisdiction

1. Having determined that a particular set of proceedings do not fall under its jurisdiction, the Court shall render a decision and transfer it to the Court that has jurisdiction over such proceedings.

2. If certain facts emerge during the principal hearing, based on which the proceedings must be transferred to the Court that has jurisdiction, the Court shall continue the proceedings with the consent of the Parties. If either of the Parties objects, the proceedings shall, based on a decision, be transferred to the Court that has jurisdiction.

3. Only the Actions of Proceedings, which cannot be postponed, may be performed prior to transferring the proceedings to the Court that has jurisdiction.

4. The Court that receives the proceedings as the Court having jurisdiction over them may render a decision challenging jurisdiction over such proceedings. In such case, the issue of jurisdiction of such proceedings shall be solved by a decision of the chairman of the cassation Court of the Republic of Armenia within a five-day period.

CHAPTER 35. CONDITIONS RELATED TO THE MANNER OF CONDUCTING THE COURT PROCEEDINGS

Article 271. Form and Place of Conducting the Court Proceedings

1. The Court Proceedings shall be conducted in the form of Court sessions, during which Court hearings may be held.

2. A Court session shall be held in a courtroom, with the exception of cases envisaged by this Code.

3. If the fair conduct of the proceedings requires performing Actions of Proceedings in another place, then the Court session may, by Petition of a Party or at the Court's initiative, be conducted outside the courtroom.

Article 272. Off-Site Court Hearings

1. Only a first instance Court may conduct off-site Court hearings based upon a Petition of a Party in the following cases:

- 1) If all of the Accused are military servicemen; or
- 2) If all of the Accused are serving sentences in the form of deprivation of liberty.

2. In the case envisaged by sub-paragraph 1 of Paragraph 1 of this Article, an off-site Court hearing may be conducted in the territory of a military detachment or military institution. In the case envisaged by sub-paragraph 2 of Paragraph 1 of this Article, an off-site Court hearing may be conducted in the territory of a penitentiary institution.

3. The Court shall reject a Petition on conducting an off-site Court hearing if:

- 1) Conducting the Court hearing at a secondary venue may create disproportionate difficulties for the Participants in the Proceedings or for Persons Supporting the Proceedings; or
- 2) The safeguards prescribed by Article 28 of this Code reasonably cannot be ensured at a secondary venue.

Article 273. Order in the Court Session

1. Before the Court bench enters into or leaves the courtroom, the Court session secretary shall announce, respectively, "all rise, the Court is coming" or "all rise, the Court is leaving." After such announcement, all those present in the courtroom shall rise to their feet.

2. At the hour set by the respective decision, the presiding Judge shall open the Court session, announce which set of proceedings is to be examined, and announce the name and surname of the Judge and the name and surname of the Court session secretary. Thereafter, the Court session secretary shall report to the Court who is attending the Court session, and the reasons for the non-attendance of the absent persons. If any participant in the Court Proceedings has failed to appear, the Court shall discuss the possibility of continuing the Court session.

3. All the participants of the Court Proceedings shall be obliged to rise to their feet when addressing the Court, using the expression “Honorable Court,” and to conduct themselves properly during the Court session. Deviation from the rules of addressing the Court shall be permitted only if authorized by the presiding Judge.

4. The entry into the courtroom of persons under the age of 16 shall be prohibited, unless they are Participants in the Proceedings or witnesses. The presiding Judge shall prohibit the presence in the courtroom of persons that are improperly dressed or in an improper condition.

5. The Instructions of the presiding Judge shall be binding for each Participant in the Proceedings and every person present at the Court session. In case of violating the rules of order in the Court session, the Court may apply the procedural sanctions stipulated by this Code in respect of such Participant in the Proceedings or other person present at the Court session.

Article 274. Publicity of the Court Proceedings

1. Persons present at the Court session shall have the right take notes. Persons present at a public Court session shall also have the right to make an audio recording. Videotaping or photographing the process of the Court session may be permitted by the Court, with the consent of the Accused. If the Accused agrees, the videotaping or photographing of a Court session may be prohibited by the Court’s decision after hearing the opinion of the Parties.

2. The participation of the representatives of the public and the mass media in a Court session or a part thereof may, at the Court’s initiative or by Petition of a party, be prohibited by a decision of the Court, if such prohibition is necessary for safeguarding:

- 1) The privacy of a person’s personal or family life;
- 2) The protection of the legitimate interests of a minor;
- 3) The security of a Person Engaged in the Proceedings or his close one;

and

4) The protection of state secrets, banking secrets, insurance secrets, service secrets, commercial secrets, and other secrets designated by law.

3. If the issue of conducting a Court session in camera needs to be discussed in the presence of the Parties alone, then the issue shall be discussed in an in-camera Court session.

4. In all cases, the Court shall publish the decision on holding a Court session in camera, as well as its grounds.

5. In addition to the Persons Engaged in the Proceedings, other persons may be present at an in-camera Court session if permitted by the Court. The Court may demand persons present at an in-camera Court session to not disclose information that became known to them during such session.

Article 275. Oral and Direct Conduct of the Court Proceedings

1. All contacts between the Court and the participants in the Court Proceedings during the Court session, including their speeches, Petitions, and statements, shall be made orally.

2. Any Evidence and other materials of the proceedings shall be directly examined in the Court session by the Court and the participants in the Court Proceedings.

3. A Judicial Act may be based only on Evidence that has been examined in a Court session.

Article 276. Irreplaceability of the Court Bench and Continuity of the Evidence Examination

1. In Court, the proceedings shall be conducted by the same bench of the Court.

2. If the participation of a Judge in the proceedings is impossible, he shall be replaced by another Judge of the same Court. With the exception of the case envisaged by Paragraph 3 of Article 32 of this Code, the Court Proceedings shall start anew after a Judge has been replaced.

3. It shall not be permitted to conduct another set of Criminal Proceedings prior to completing the Evidence examination in the principal hearings or postponing the principal hearings during the Evidence examination.

Article 277. Procedure of Decision Making in a Court Session

1. The Court shall render a decision on every issue solved during a Court session, after hearing the opinions of the Parties taking part in the Court session.

2. A decision on discontinuing the proceedings, a decision on terminating criminal prosecution, a decision on abolishing, changing, prolonging the term of, or applying a restraint measure, a decision on Self-Recusal or Recusal, a decision on

dismissing from participation in the proceedings, a decision ordering an expert examination, a decision on declaring Evidence as inadmissible, a decision on imposing a judicial fine, and a decision on removing from the proceedings shall be stated in the form of a standalone document.

3. All other decisions may, at the Court's discretion, be rendered either in the form of a standalone document or by means of incorporation in the Court session Protocol.

4. All decisions rendered by the Court shall be immediately published. Decisions rendered in the form of a standalone document shall be provided to the Parties within three days.

5. The verdict and the Judicial Act concluding the proceedings shall be rendered in a separate room. Only the Judge conducting the proceedings in question may be present in such separate room. The presence of other persons shall not be permitted.

CHAPTER 36. CONDITIONS RELATED TO THE PARTICIPANTS IN THE COURT PROCEEDINGS

Article 278. Presence of Persons Engaged in the Proceedings in the Court Session

9. All Persons Engaged in the Court Proceedings shall be obliged to appear at the Court session in time, having with them a personal identification document and, if necessary, also a document confirming that they have been duly authorized.

10. A person who cannot be present at the Court session due to a valid excuse shall be obliged to give proper advance notice to the Court of his inability to be present and its reasons.

11. The Court may decide to impose the procedural sanctions envisaged by this Code upon a person who fails to attend a Court session without a valid excuse, with a view to securing his presence in future sessions of the Court.

Article 279. Participation of the Accused in a Court Session and the Consequences of His Failure to Attend

1. The participation of an Accused in a Court session shall be mandatory. In case of the failure of the Accused to attend the Court session, the Court session shall be postponed.

2. The Court may decide to apply the coercive measures envisaged by this Code in relation to an Accused who fails to attend a Court session without a valid excuse, with a view to securing his presence in future sessions of the Court.

3. A Court session may be held without the participation of the Accused only if the procedural sanction envisaged by Paragraph 4 of Article 144 of this Code has been imposed upon him.

Article 280. Participation of a Prosecutor and Defender in the Court Session and the Consequences of Their Failure to Attend

1. The Prosecutor's participation in a Court session shall be mandatory, unless this Code provides otherwise. If the Prosecutor fails to attend the Court session and cannot be replaced by another Prosecutor in such session, the Court session shall be postponed.

2. If the continued participation of the Prosecutor is impossible due to the removal of the Public Accuser from the proceedings or another reason, he shall be replaced with another Prosecutor. The Court shall give the new Prosecutor engaged in the proceedings reasonable time to study the Criminal Case File and to prepare for defending the Accusation, taking into consideration the complexity of the proceedings, the time already spent on the examination in the Court Proceedings, and other circumstances.

3. The participation of a Defender in the Court session shall be mandatory, unless this Code provides otherwise. If the Defender fails to appear at the Court session and cannot be replaced with another Defender during such session, the Court session shall be postponed.

4. If the continued participation of a Defender in the proceedings is impossible due to his removal from the proceedings or another reason, the Court shall offer to the Accused to invite a new Defender. If a new Defender is not invited, the Court shall demand the Chamber of Attorneys of the Republic of Armenia to appoint a Defender.

5. The Court shall give the new Defender engaged in the proceedings a reasonable time period to study the Criminal Case File and to prepare for defending the Accused, taking into consideration the complexity of the proceedings, the time already spent on the examination in the Court Proceedings, and other circumstances.

Article 281. Participation of a Victim, Property Respondent, Their Representatives, or the Lawful Representative of the Accused in the Court Session and the Consequences of Their Failure to Attend

1. The participation of a Victim, Property Respondent, their representatives, or the Lawful Representative of an Accused in the Court session shall be mandatory, with the exception of cases in which:

- 1) The Court has allowed the respective person in advance not to participate in a particular Court session; or
- 2) The Court, having heard the opinion of the Parties, finds that the absence of the respective person is not an obstacle to conducting the particular Court session.

Article 282. Participation of a Witness, Expert, and Translator in the Court Session and the Consequences of Their Failure to Attend

1. If any witness or expert invited to a Court session fails to attend, the Court shall, having heard the opinion of the Parties, render a decision on continuing or postponing the Court session. The Court session shall be continued if the absence of the witness or expert invited to the particular Court session will not obstruct the fair conduct of the proceedings.

2. In the cases stipulated by this Code, a translator's participation in the Court session shall be mandatory. If the translator fails to attend, the Court session shall be postponed.

CHAPTER 37. OTHER CONDITIONS OF THE COURT PROCEEDINGS

Article 283. Scope of the Court Examination

1. In the first instance Court, proceedings shall be conducted only in respect of an Accused. The Court shall, in any event, be confined by the factual circumstances underlying the Accusation presented to the

Accused. The Court shall be confined by the legal assessment given to the alleged factual circumstances (the alleged conduct) only when it has not discussed the issue of a differing legal assessment for the Parties in the framework of a due process of law.

2. The factual circumstances of the Accusation presented to the Accused may be changed or supplemented in the first instance Court only by the Public Accuser, if the Evidence examined during the principal hearings confirmed factual circumstances that were not and could not be known during the Pre-Trial Proceedings and, as such or in conjunction with other factual circumstances, make it necessary to present a new Accusation to the Accused.

3. Prior to the first instance Court moving to a separate room for rendering the conclusive Judicial Act, the Public Accuser shall have the right to change the legal assessment of the act attributed to the Accused.

4. When rendering the verdict, the Court may, without going beyond the scope of the factual circumstances underlying the Accusation, and in compliance with the conditions prescribed by this Code, give another legal assessment to them or remove from the Accusation certain acts attributed to the Accused.

Article 284. Procedure of Changing or Supplementing the Accusation Presented

1. The Public Accuser shall defend the Accusation in the first instance Court on the basis of his inner conviction based on the Evidence. If the factual circumstances envisaged by Paragraph 2 of Article 238 of this Code are present, the Public Accuser shall file Petition requesting the Court to provide time to change or supplement the Accusation presented to the Accused. Such a Petition may be filed only before starting the closing speeches.

2. The Public Accuser's Petition on changing or amending the Accusation shall be rejected only when it was presented in the absence of the conditions prescribed by this Code. In case the Petition is rejected, the Court shall continue the proceedings.

3. If the Public Accuser's Petition is granted, the Court shall postpone the Court session and give a reasonable time period for changing or supplementing the Accusation.

4. In case of changing or supplementing the Accusation, the Public Accuser shall prepare a decision on

presenting a new Accusation, which shall replace the accusatory conclusion and shall meet the requirements concerning the contents of an accusatory conclusion. The decision on presenting a new Accusation shall be given to the Court and to the participants in the Court Proceedings. The Court shall give the Accused and his Defender, the Victim, the Property Respondent, and their representatives a reasonable period of time to become familiar with the new Accusation.

5. The Court shall continue with the original Accusation, if the decision on presenting the new Accusation was prepared or presented in violation of the requirements of this Code. The Court shall render a separate decision about doing so.

6. If after examining all the Evidence during the principal hearings, the Public Accuser reaches the belief that the Accusation presented to the Accused has fully or partially not been proven, then he shall file a Petition in his closing speech about fully or partially acquitting the Accused.

7. Taking into consideration the basis, justifications, and scope of the Public Accuser's Petition on acquitting the Accused, and having heard the opinion of the other Participants in the Proceedings about such Petition, the Court may grant or reject the Petition in the Conclusive Judicial Act.

Article 285. Postponing the Court Hearings

1. Court hearings shall be postponed if:

- 1) Any of the grounds for suspending criminal prosecution, as envisaged by sub-paragraphs 1, 2, 3, or 5 of Paragraph 2 of Article 196 of this Code, is present;
- 2) Any of the persons envisaged by Articles 279 to 292 of this Code has failed to attend, provided that his participation is mandatory by law or based on a Court decision; or
- 3) The Court finds that it is necessary to determine the constitutionality of the provisions of a normative act, which are related to the proceedings at hand.

2. Court hearings may be postponed at the Court's initiative or by Petition of a Party if:

- 1) It is necessary for obtaining new Evidence; or
- 2) It is necessary for the Public Accuser to change or supplement the Accusation, or for the Defense Party to become familiar with the new Accusation and to take measures to protect against it.

3. If the Court hearings are postponed on the basis of a ground envisaged by sub-paragraphs 1 or 2 of Paragraph 1 of this Article, the Court shall take measures to ensure the presence of the respective Participant in the Proceedings in future sessions of the Court. If the Court hearings are postponed on the basis of a ground envisaged by sub-paragraph 3 of Paragraph 1 of this Article, the Court shall apply to the Constitutional Court of the Republic of Armenia.

4. The Court shall render a decision on postponing the Court hearings. In each case, the Court hearings shall be postponed for a reasonable period, taking into consideration the peculiarity of the circumstances obstructing the continuation of the proceedings and the nature of the measures taken to eliminate them.

Article 286. Documenting the Court Session

12. The proceedings in Court shall be subject to documenting, which shall be mandatory. During the Court session, the Protocol shall be compiled by the Court session secretary, who shall incorporate all the Actions of Proceedings and all the decisions in the Protocol.

13. If there is an audio recording system in the courtroom, the Protocol shall be compiled by means of voice recording of the Court session and concurrent shorthand note-taking on the computer. Shorthand note-taking shall be performed in the form of notes about the Actions of Proceedings performed and decisions rendered in the courtroom. The detailed procedure of operating the special computer system for audio recording, data archiving, and system security shall be defined by the Ministry of Justice of the Republic of Armenia.

14. If there is no special system for computer-based audio recording, or if certain Actions of Proceedings are performed outside the courtroom, a plain paper-based Protocol shall be compiled.

15. A plain paper-based Protocol of a Court session shall contain:

- 1) The place, year, month, and day of the Court session;
- 2) The hour of starting and ending the Court session;
- 3) Information on the proceedings being conducted;
- 4) The name and composition of the Court conducting the proceedings, and the Participants in the Proceedings that are present in the Court session;
- 5) Personal data on the Accused and information about the restraint measure applied;

6) The Actions of Proceedings—in the sequence order in which they occurred;

7) A summary of the speeches, Petitions, and statements of the Participants in the Proceedings;

8) The Court's decisions that were rendered without compiling a separate document;

9) Information about decisions being rendered in a separate room;

10) Information about the rights and explanations having been clarified to the Participants in the Proceedings;

11) The content of the Testimonies, including the questions posed and the answers thereto;

12) Other actions aimed at examining the Evidence and the results of such actions;

13) Circumstances that the Participants in the Proceedings requested to document in the Protocol;

14) Information about the publishing of the Conclusive Judicial Act and the clarification of the procedure and time periods of appealing it;

15) Information about violations of the rules of order in the Court session, facts of contempt of Court, the person violating the rules, and the procedural sanction imposed on such person by the Court;

16) Information about the Participants in the Proceedings becoming familiar with the Protocol and clarification of the right to present comments on the Protocol;

17) The content of decisions rendered in the form of a separate document; and

18) The verdict and the conclusive part of the judgment.

16. The information envisaged by sub-paragraphs 11 to 13 of Paragraph 4 of this Article shall be documented by the Court session secretary *ad literum*.

17. During the Court session, a plain paper-based Protocol shall be compiled in handwriting or by computer and annexed to the materials of the proceedings with the signature of the presiding Judge and the Court session secretary.

18. When compiling a Protocol using the special computer system for audio recording, its shorthand note-taking shall be performed concurrently with the audio recording, using the computer. The audio Protocol shall be annexed to the materials of the proceedings on a laser medium. The shorthand notes shall be annexed to the materials of the proceedings on paper, signed by the Court session secretary.

19. A copy of the audio Protocol medium of the Court session shall, together with its shorthand notes, be provided to the Participants in the Proceedings based on their application immediately after the Court session.

20. A copy of the plain paper-based Protocol of a Court session shall, based on a written application of the Participants in the Proceedings, be provided not later than on the day following receipt of the application.

21. The empty fields in the Protocol shall be marked with a dash. Erasures in the content shall be prohibited. If a correction is necessary, the Court session secretary shall obtain the agreement of the presiding Judge to such correction prior to its signing.

Article 287. Comments on a Plain Paper-Based Protocol

1. The Participants in the Proceedings may become familiar with the plain paper-based Protocol and, within three days, present comments on its completeness or accuracy.

2. Comments on a plain paper-based Protocol shall be discussed by the Judge who signed the Protocol, who shall render a decision regarding them within a three-day period.

Article 288. Entry into Legal Force of Judicial Acts

1. A Conclusive Judicial Act of a first instance Court shall enter into legal force when the time period for filing an appeal for appellate review or special review has passed, unless an appeal has been lodged. Other Judicial Acts of a first instance Court shall enter into legal force when published.

2. A Judicial Act rendered by an appellate Court as a result of the appellate review shall enter into legal force when the time period for lodging a cassation appeal has passed, unless such an appeal has been lodged. Other Judicial Acts of the appellate Court shall enter into legal force when published.

3. Judicial Acts of the Cassation Court shall enter into legal force when published.

Article 289. Delivering a Judgment for Execution

1. A judgment that has entered into legal force shall be delivered for execution by the Court that rendered it not later than within three days of its entry into force or return of the case file by the higher instance Court.

2. If an acquitting judgment is rendered, but the person who committed the crime remains unknown, the Court shall, within three days of the entry into force of such judgment or return of the case file by the higher instance Court, send the Criminal Case File to the Prosecutor for solving the issue of initiating criminal prosecution in respect of a new person.

3. The Judge's Instruction on executing the judgment shall, together with a copy of the judgment or, in case of changing the Judicial Act in the process of review, together with a copy of the higher-instance Court's Judicial Act, be sent to the body that under law bears the obligation of executing the judgment.

4. A Judge shall be obliged to inform a Close Relative of a person, who is in detention and has been convicted to imprisonment, about delivering the judgment for execution. If a person, who is in detention and has been convicted to imprisonment, is a citizen of a foreign state with which the Republic of Armenia has an international treaty on the provision of legal aid in Criminal Cases or an understanding about mutual provision of such aid, then the Court shall, through diplomatic channels, also notify the person's citizenship state of the Instruction to deliver the judgment for execution in respect of such person.

Article 290. Resolution of Ambiguity in a Conclusive Judicial Act

1. The Court that rendered a conclusive judicial act may solve ambiguity arising during its execution, provided that it cannot alter the actual essence of the Judicial Act.

2. The following ambiguities shall be subject to resolution:

1) The sentence has not been correctly calculated;

2) The issues of applying a restraint measure, keeping or disposing of Evidence, seizing Property, or distributing the costs of proceedings have not been solved or have been solved ambiguously; or

3) The description part or the reasoning part of the judgment contains ambivalent language.

**SECTION 9. JUDICIAL SAFEGUARDS OF THE PRE-TRIAL
PROCEEDINGS**

**CHAPTER 38. JUDICIAL SAFEGUARDS OF THE APPLICATION OF
RESTRAINT MEASURE**

**Article 291. Scope of Judicial Safeguards of the Application of Restraint
Measures**

Detention, as well as house arrest and administrative supervision may be applied only by decision of a competent Court, within the scope of a due process of law prescribed by this Code.

**Article 292. Initiation of Proceedings to Apply a Restraint Measure or to
Prolong the Term of a Restraint Measure Applied**

1. Proceedings to apply a restraint measure or to prolong the term of a restraint measure applied shall be initiated based on a Petition of an Investigator.
2. The Investigator's Petition shall contain:
 - 1) The name of the competent Court;
 - 2) The Investigator's name, patronymic, surname, and position;
 - 3) The year, month, day, hour, and minute of presenting the Petition to Court;
 - 4) The number of the proceedings;
 - 5) A remark confirming the supervising Prosecutor's consent to the Petition, signed by him;
 - 6) The name, patronymic, surname, and relevant personal data of the Accused and, in case he is deprived of liberty, the legal grounds thereof and the time of being *de facto* deprived of liberty;
 - 7) The restraint measure for which Petition is filed;
 - 8) Justifications of the Petition;
 - 9) If necessary, the request to examine the Petition in camera and justifications thereof; and
 - 10) A list of the materials annexed to the Petition.
3. Copies of the Protocol on initiating the Criminal Proceedings and of the decision to engage a person as the Accused, as well as copies of the materials necessary to confirm the substantiation of the Petition, shall be annexed to the Petition. If the Accused, in respect of whom the Petition is filed, is deprived of liberty, then copies

of the documents based on which he was deprived of liberty shall also be annexed to the Petition.

4. The Petition and the annexed materials shall be presented to the Court in two copies.

5. The arrested Accused person shall be brought before Court at the time when the Petition is presented. Immediately after receiving the Petition, but not later than within an hour, the Court shall render a decision on initiating proceedings to apply a restraint measure or to refuse to initiate such proceedings.

6. A Petition on prolonging the term of detention or house arrest shall be presented to the Court not later than five days before the end of the term for which the respective restraint measure was applied. Not later than on the day following the receipt of the Petition, the Court shall render a decision on initiating proceedings to prolong the term of detention or house arrest or refusing to initiate such proceedings.

7. The decision to initiate proceedings shall specify the place, year, month, day, and hour of conducting the Court session, and whether it was public or in camera. The Court session shall be scheduled within the shortest time period possible. The time that the Defense Party reasonably needs for becoming familiar with the Petition and the annexed materials and for developing its position shall be taken into consideration when deciding the time of the Court session. After rendering a decision on initiating proceedings, one copy of the Petition and the annexed materials shall be immediately delivered to the Accused.

8. The initiation of proceedings shall be refused with substantiation, if any of the conditions envisaged by Paragraphs 2 to 6 of this Article has not been complied with. The refusal to initiate proceedings shall not be an obstacle to presenting a new Petition.

9. Decisions to initiate proceedings or to refuse initiation of proceedings shall not be subject to appeal.

Article 293. Object of Proceedings to Apply a Restraint Measure or to Prolong the Term of a Restraint Measure Applied

The object of proceedings conducted in Court to apply a restraint measure or to prolong the term of a restraint measure applied shall be the need for and lawfulness of applying a restraint measure in respect of the Accused or the need for and lawfulness of prolonging the term of a restraint measure applied, or the possibility of applying a more

lenient restraint measure, or also the lawfulness of arrest in case the Accused has been arrested.

Article 294. Conducting the Proceedings to Apply a Restraint Measure or to Prolong the Term of a Restraint Measure Applied

1. Subject to a Petition to apply a restraint measure or to prolong the term of a restraint measure applied, Court hearings shall be conducted on the basis of the equality of the Parties and competition, with the mandatory participation of the Investigator and the Accused. The official who initiated the Petition shall be responsible for ensuring the presence of the Accused. The only exception from the rule of mandatory participation of the Accused is the case when the whereabouts of the Accused are unknown.

2. The supervising Prosecutor, as well as the Defender and Lawful Representative of the Accused shall have the right to participate in Court hearings based on a Petition to apply a restraint measure or to prolong the term of a restraint measure applied.

3. The Court session to examine the issue of applying a restraint measure or prolonging the term of a restraint measure applied shall be open to the public, unless the Court decided, in its decision to initiate the proceedings, to conduct a Court session in camera. In any event, Court may, either at its initiative or by Petition of a Party, change the decision on publicity of the Court session, with substantiation, before or during the Court session.

4. In a Court hearing based on a Petition to apply a restraint measure or to prolong the term of a restraint measure applied, the Accusation Party shall be the first to provide an Explanation, followed by the Defense Party. The opposite Party and the Judge may pose questions to the Party providing an Explanation.

5. The Parties may present to the Court additional materials related to the object of the proceedings. If they are not relevant, the Court shall not examine the additional materials, but shall be obliged to annex them to the proceedings. If they are relevant, the opposite Party shall be given a reasonable opportunity to become familiar with the additional materials.

6. The provisions of Section 8 of this Code shall, *mutatis mutandis*, apply to the procedure of conducting Court hearings based on a Petition to apply a restraint measure or to prolong the term of a restraint measure applied.

7. After concluding the Court hearings, the Court shall move to a separate room for rendering a decision.

Article 295. Decision Regarding the Petition to Apply a Restraint Measure or to Prolong the Term of a Restraint Measure Applied

1. As a result of examining a Petition to apply a restraint measure or to prolong the term of a restraint measure applied, the Court shall render one of the following three decisions:

- 1) A decision on rejecting the Petition;
- 2) A decision on partially granting the Petition; or
- 3) A decision on fully granting the Petition;

2. The Court shall render the decision envisaged by sub-paragraph 1 of Paragraph 1 of this Article, if:

- 1) It discovers any circumstance envisaged by Article 12 of this Code;
- 2) The reasonable suspicion of committing the crime attributed to the Accused is not proven;

- 3) The Court reaches the conclusion that there is no need to apply the requested restraint measure for securing the proper conduct of the Accused, and that the need for and possibility of applying a more lenient restraint measure or a combination of more lenient restraint measures shall be solved by the respective Public Participants in the Proceedings within the limits of their authority; or

- 4) The Court reaches the conclusion that grave violations of law were committed when arresting the person.

3. The Court shall render the decision envisaged by sub-paragraph 2 of Paragraph 1 of this Article, if:

- 1) The Court reaches the conclusion that the proper conduct of the Accused can be secured by applying a more lenient restraint measure or a combination of more lenient restraint measures; or

- 2) The Court reaches the conclusion that the proper conduct of the Accused can be secured by applying the requested restraint measure with more lenient terms (a shorter duration of detention or house arrest, or more favorable terms of administrative supervision).

4. The Court shall render the decision envisaged by sub-paragraph 3 of Paragraph 1 of this Article, if it reaches the conclusion that the Accusation Party has, in accordance with the procedure defined by this Code, duly substantiated the need for

and lawfulness of applying the requested restraint measure at the terms specified in the Petition.

5. If the Court renders either of the decisions envisaged by sub-paragraphs 2 or 3 of Paragraph 1 of this Article, then it shall clearly specify the type and terms of the restraint measure applied.

6. If the Court renders a decision on applying detention as a restraint measure, then it may, based on a substantiated Petition by the Accused, obligate the Body Conducting the Criminal Proceedings to undertake the measures necessary for the care of minors or incapable persons under the care of the detained person and/or for the protection of property.

7. The conclusive part of the decision shall be published in the Court session. A copy of the decision shall be duly provided to the participants in the Court session not later than within three hours of publishing the decision. A copy of the decision shall be duly sent to the registration address of the Accused, if the whereabouts of the latter are unknown.

Article 296. Petition to Abolish Detention or to Apply an Alternative Restraint Measure Instead and the Examination of Such a Petition

1. The Accused who is detained and his Defender and Lawful Representative shall have the right, not later than seven days before the end of the detention term, to file a Petition to Court on abolishing the detention or applying an alternative restraint measure instead of detention. A copy of such Petition shall be sent to the Investigator conducting the Pre-Trial Proceedings and to the supervising Prosecutor.

2. The Court shall reject the initiation of proceedings on the basis of a Petition, if the Petition was filed by an improper person or in an improper time period, or if the Petition does not contain any new material arguments challenging the lawfulness of the detention or substantiating the possibility of applying alternative restraint measures. Otherwise, the Court shall, based on the Petition, initiate proceedings and schedule a new Court session within five days.

3. Court hearings based on the Petition envisaged by this Article shall be conducted in compliance with the requirements of Article 294 of this Code. If the Court, based on the nature of the arguments in the Petition, reaches the Conclusion that the participation of the Accused is not mandatory, then it may clearly define in the decision

to initiate proceedings that the participation of the Accused in the Court session shall not be mandatory.

4. As a result of examining the Petition, the Court shall render one of the following decisions:

1) A decision on rejecting the Petition, if it reaches the conclusion that the inferences regarding the lawfulness of and need for detention continue to remain founded; or

2) A decision on partially or fully granting the Petition, if it confirms the existence of any of the circumstances envisaged by Paragraph 2 or 3 of Article 295 of this Code. If, while abolishing the detention, the Court reaches the conclusion that it is necessary to apply an alternative restraint measure or a combination thereof, then the decision shall clearly specify the type and conditions of the restraint measure applied.

Article 297. Repeated Examination and Resolution of the Detention Issue

1. If the decision to apply detention as a restraint was rendered without the participation of the Accused, then the Body Conducting the Criminal Proceedings shall be obliged, within 24 hours of detaining the Accused under the jurisdiction of the Republic of Armenia, to bring such person before the competent Court for a repeated examination of the issue of the detention imposed upon him.

2. The issue of the detention of the Accused brought before a Court under the procedure envisaged by this Article shall be examined and solved in compliance with the rules envisaged by Articles 294 and 295 of this Code.

CHAPTER 39. JUDICIAL SAFEGUARDS OF THE PERFORMANCE OF PROVING ACTIONS

Article 298. Scope of the Judicial Safeguards of the Performance of Proving Actions

Investigative actions subject to performance in a House (save for the cases envisaged by this Code), the seizure of documents containing banking secrets, notary secrets, insurance secrets, and securities market service secrets, as well as undercover investigative actions may be performed only with the prior consent of the Court under a due process of law prescribed by this Code.

Article 299. Petition to Perform a Proving Action

1. A Petition to perform the Proving Actions envisaged by Article 298 of this Code shall be filed to Court by an Investigator. The Investigator's Petition shall contain:

- 1) The name of the competent Court;
- 2) The Investigator's name, patronymic, surname, and position;
- 3) The year, month, day, hour, and minute of presenting the Petition to the Court;
- 4) The number of the proceedings;
- 5) The name, patronymic, surname, and status of the person in respect of whom Petition is filed for restricting his constitutional right;
- 6) The Proving Action for which Petition is filed, and the relevant terms of its execution, including the time periods;
- 7) The result expected from the Proving Action for which Petition is filed;
- 8) In case of a Petition to prolong the time period of an undercover investigative action, the result obtained during the performance of the undercover investigative action;
- 9) The arguments that justify the need for and proportionality of restricting the person's constitutional right; and
- 10) A list of the documents annexed to the Petition.

2. A copy of the Protocol on initiating the Criminal Proceedings, too, shall be annexed to the Petition, together with copies of the materials necessary to confirm that the Petition is substantiated.

3. A Petition regarding the performance of the undercover investigative action envisaged by Paragraph 3 of Article 248 of this Code shall also contain the respective postal address. In case of its absence, the respective person's signature sample or other features sufficient for identifying him may be presented.

4. A Petition regarding the performance of the undercover investigative action envisaged by Paragraph 4 of Article 248 of this Code shall also contain the respective telephone number, e-mail address, words or word combinations of interest for the search, or other relevant personal identification data.

5. A Petition regarding the performance of the undercover investigative action envisaged by Paragraph 5 of Article 248 of this Code shall also contain information about the respective bank account (deposit), information on the respective financial transactions, and the personal identification data of persons whom such transactions concern or who own the bank account in question.

6. A Petition regarding the performance of the undercover investigative action envisaged by Paragraph 6 of Article 248 of this Code shall be accompanied by the report of the respective person about the offer to give or receive a bribe.

7. A Petition to prolong the term of an undercover investigative action shall be presented to the Court not later than five days before the end of the term of such undercover investigative action.

Article 300. Examination of a Petition to Perform a Proving Action and Decisions Rendered as a Result of Such Examination

1. The examination of a Petition to perform Proving Actions shall begin immediately after the Petition is presented to the Court, but not later than within three hours. The examination of a Petition to prolong the term of an undercover investigative action shall start not later than on the day following the presentation of such Petition to the Court.

2. The judicial examination of a Petition shall be held in a Court session held in camera, with the mandatory participation of the person who filed the Petition. The supervising Prosecutor may participate in such Court session. In addition, in case of a Petition to perform an undercover investigative action or to prolong the term of such an action, the Head of the respective Inquiry Body and/or the respective Inquiry Officer may participate, as well.

3. If demanded by the Court, the Investigator and the Head of the Inquiry Body and Inquiry Officer participating in the Court session shall provide Explanations on the object of the Petition.

4. As a result of examining the Petition, the Court shall render one of the following three decisions:

- 1) A decision on rejecting the Petition;
- 2) A decision on granting the Petition and permitting the performance of the Proving Action for which Petition was filed; or
- 3) A decision on granting the Petition and prolonging the time period for the performance of the undercover investigative action for which Petition was filed.

5. In case of granting the Petition, the Court may change the relevant conditions, including time period of the execution of the permitted Proving Action to the benefit of the person whose rights would be restricted as a result of the Proving Action.

6. The decision rendered by the Court as a result of examining the Petition shall be immediately delivered to the Investigator who filed the Petition.

CHAPTER 40. JUDICIAL SAFEGUARDS OF LIMITATIONS OF
OWNERSHIP RIGHTS

**Article 301. Scope of Judicial Safeguards of the Lawfulness of Limitations
of Ownership Rights**

The lawfulness of an Investigator's decision to seize property shall be subject to checking by the competent Court under a due process of law envisaged by this Code.

**Article 302. Initiation of Proceedings to Check the Lawfulness of
Limitations of Ownership Rights**

1. Proceedings to check the lawfulness of limitations of ownership rights shall be initiated on the basis of the Investigator's Petition to confirm the lawfulness of a decision to seize property, which shall be presented to the Court within a three-day period of seizing the respective property.

2. The Petition shall contain:

- 1) The name of the competent Court;
- 2) The Investigator's name, patronymic, surname, and position;
- 3) The year, month, day, hour, and minute of presenting the Petition to the Court;
- 4) The number of the proceedings;
- 5) The relevant personal identification data and address of the owner of the seized property and/or other persons that have property interests therein;
- 6) A description of the seized property;
- 7) The arguments substantiating the need for and lawfulness of seizing the property;
- 8) If necessary, the request to examine the Petition in camera and the justifications thereof; and
- 9) A list of the materials annexed to the Petition.

3. A copy of the Protocol on initiating the Criminal Proceedings, a copy of the decision to engage the respective person as the Accused, a copy of the decision to seize the property, the document confirming the delivery of a copy of the Petition to the Property owner and/or other persons that have property interests therein, and copies of the materials necessary to confirm that the Petition is substantiated.

4. Not later than on the day following the receipt of the Petition, the Court shall render a decision to initiate proceedings for judicial checking of the lawfulness of limiting the ownership right.

5. The decision to initiate the proceedings shall specify the place, year, month, day, and hour of conducting the Court session, and whether it will be public or in camera. A copy of the decision shall be duly sent to the Investigator who initiated the Petition, as well as the owner of the seized property and/or other persons that have property interests therein.

6. The Court session shall be scheduled within a seven-day period.

Article 303. Conducting the Proceedings to Check the Lawfulness of Limitations of Ownership Rights

1. A Court hearing shall be conducted for checking the lawfulness of a limitation of an ownership right, with the mandatory participation of the Investigator. The owner and/or other person who has a property interest therein, as well as their representatives, and the supervising Prosecutor shall have the right to participate in such Court hearing.

2. The Court hearing may be conducted in the absence of the owner of the seized property or of another person having a property interest in such property, provided that he was properly notified of the Court session.

3. The Court session to check the lawfulness of a limitation of an ownership right shall be open to the public, if, in the Court decision on initiating the proceedings, the Court did not decide to conduct a session in camera. In any event, the Court may change, with justification, the decision on publicity of the Court session before or during the Court session at its initiative or by Petition of Party.

4. In a Court hearing conducted for checking the lawfulness of a limitation of an ownership right, the Investigator shall be the first to provide an Explanation, followed by the owner of the seized property, another person having a property interest in such property, and/or their representative, provided that such persons are attending the Court session. The opposite Party, as well as the Judge shall have the right to pose a question to the person providing an Explanation.

5. The Parties may present to the Court additional materials related to the object of the proceedings. If they are not relevant, the Court shall not examine the additional materials. However, the Court shall be obliged to annex them to the

proceedings. If they are relevant, the other Party shall be given a reasonable possibility to become familiar with the additional materials.

6. The procedure of conducting Court hearings to check the lawfulness of a limitation of an ownership right shall, *mutatis mutandis*, be subject to the provisions of Section 8 of this Code.

7. Having concluded the Court hearings, the Court shall move to a separate room for rendering the decision.

Article 304. Decision on a Petition to Confirm the Lawfulness of a Limitation of an Ownership Right

1. As a result of examining a Petition to confirm the lawfulness of a decision to seize property, the Court shall render one of the following decisions:

1) A decision to reject the Petition and to abolish the Investigator's decision on seizing the property; or

2) A decision on confirming the lawfulness of the Investigator's decision to grant the Petition and seizing the property;

2. The conclusive part of the decision shall be published in the Court session. The full decision shall be duly delivered or sent to the Court session participants not later than on the day following the publishing of the decision.

Article 305. Petition to Abolish a Limitation of a Property Right and Its Examination

1. The owner of seized property, another person having a property interest therein, and/or their representative shall have the right, during the Pre-Trial Proceedings, to file a Petition to Court on abolishing the seizure of property, not later than six months after the seizure of property. A copy of such Petition shall be sent to the Investigator conducting the Pre-Trial Proceedings and to the supervising Prosecutor.

2. The Court shall reject the initiation of proceedings on the basis of a Petition, if the Petition was filed by an improper person or in an improper time period, or if the Petition does not contain any new material arguments challenging the lawfulness of the property seizure. Otherwise, the Court shall, based on the Petition, initiate proceedings and schedule a new Court session within seven days.

3. The Court hearings based upon a Petition envisaged by this Article shall be conducted in compliance with the requirements of Article 303 of this Code.

4. As a result of examining the Petition, the Court shall render one of the following three decisions:

1) A decision on rejecting the Petition, if the Court reaches the conclusion that the inferences regarding the lawfulness of seizing property remain founded; or

2) A decision on partially or fully granting the Petition, and partially or fully abolishing the property seizure, if it agrees with the arguments stated in the Petition.

CHAPTER 41. JUDICIAL SAFEGUARDS OF THE LAWFULNESS OF ACTIONS OF PROCEEDINGS (PRE-TRIAL ACTIONS) OF PUBLIC PARTICIPANTS IN THE PROCEEDINGS

Article 306. Scope of Judicial Safeguards of the Lawfulness of Pre-Trial Actions

1. The following pre-trial actions shall be subject to judicial appeal:

1) The refusal to document a report of an alleged crime or the refusal to initiate Criminal Proceedings;

2) A decision to discontinue the Criminal Proceedings;

3) A decision on not initiating criminal prosecution, a decision on terminating criminal prosecution, a decision on suspending the time period of criminal prosecution, and a decision on renewing the criminal prosecution;

4) A decision on rejecting a Petition on recognizing a person as a Participant in the Proceedings;

5) A decision to apply a restraint measure;

6) A decision on short-term arrest;

7) A decision on removal from the Criminal Proceedings;

8) A decision on turning bail into revenues of the state; and

9) A decision of the Prosecutor General of the Republic of Armenia on terminating, based on new circumstances, a decision on not initiating criminal prosecution or a decision on terminating the criminal prosecution.

2. A pre-trial action shall also be subject to a judicial appeal, if it will be impossible to challenge such an act during the Court examination, or if such challenge will obviously deprive the appealing party of a genuine possibility to protect his legitimate interests.

Article 307. Procedure of Judicial Appeal of a Pre-Trial Action

1. An appeal against a pre-trial action envisaged by Article 306 of this Code may be filed by a Private Participant in the Proceedings or by any other person that justifies the disproportionate impact of such act on his legitimate interests.

2. An appeal against a pre-trial action envisaged by Article 306 of this Code may be filed in Court only if the appeal has been filed with the competent Prosecutor and the latter has not granted such appeal, unless an Action of Proceedings of the Prosecutor General of the Republic of Armenia is being challenged.

3. An appeal against a pre-trial action envisaged by Article 306 of this Code may be filed to Court within a 15-day period. Such period shall begin:

1) On the day of receiving the rejection of the appeal to the competent Prosecutor or the response, which is different from granting; or

2) On the day that is one month after filing the appeal, if no response to the appeal was received.

Article 308. Content of an Appeal concerning a Pre-Trial Action

1. An appeal concerning a pre-trial action shall contain:

1) The name of the competent Court;

2) The name, patronymic, surname, and status, if any, of the person lodging the appeal;

3) The year, month, and day of lodging the appeal with the Court;

4) The number of proceedings, if any;

5) The Action of Proceedings being appealed;

6) The process and result of the prosecutorial appeal against the Action of Proceedings being appealed;

7) In case of appealing against an Action of Proceedings envisaged by Paragraph 2 of Article 306 of this Code, justification that challenging the act will be impossible during the Court examination or if such challenge will obviously deprive the appealing party of a genuine possibility to protect his legitimate interests;

8) The arguments and demand of the appeal; and

9) The list of documents annexed to the appeal.

Article 309. Initiating Proceedings to Challenge a Pre-Trial Action

1. Within a three-day period of receiving an appeal concerning a pre-trial action, the Court shall render a decision on initiating proceedings to challenge a pre-trial

action. Such decision shall specify the place, date, and time of conducting the Court session. The Court session may be scheduled within seven days of initiating the proceedings.

2. The initiation of proceedings shall be rejected with justification, if any of the requirements stipulated by Articles 306 to 308 of this Code has not been met.

3. The decision on initiating proceedings shall be immediately sent to the person who lodged the appeal and the Public Participant in the Proceedings, which rendered (carried out) the appealed action.

4. In the decision on initiating proceedings, the Court may demand that the Public Participants in the Proceedings present relevant materials to the Court and/or attend the Court session.

5. The decision on rejecting initiation of proceedings shall be immediately sent to the person who lodged the appeal.

Article 310. Conducting the Proceedings to Challenge a Pre-Trial Action

1. The proceedings to challenge a pre-trial action shall be conducted in the form of a Court hearing with the mandatory participation of the person who filed the appeal or his representative or Defender. If none of the said persons attends the Court session, the Court shall decide to discontinue the proceedings.

2. The Public Participant in the Proceedings, which rendered (carried out) the challenged pre-trial action, and the supervising Prosecutor shall have the right to participate in the Court hearings concerning the challenge of the pre-trial action. In the case specified in Paragraph 4 of Article 309 of this Code, the attendance of the respective Public Participant in the Proceedings in the Court session shall be mandatory.

3. Persons participating in the Court session shall have the right to provide an Explanation.

Article 311. Decisions Rendered as a Result of the Proceedings to Challenge a Pre-Trial Action

1. As a result of the Court hearing concerning the challenge of the pre-trial action, the Court shall render a decision fully or partially granting the appeal or rejecting the appeal.

2. In any event, the appeal shall be granted, if the Public Participant in the Proceedings has failed to present the materials demanded by the Court. The appeal

may be granted, if the Public Participant in the Proceedings has failed to appear before the Court when demanded by the latter.

3. If the appeal is granted, the Court shall impose on the Public Participant in the Proceedings the obligation to render (carry out) a specific Action of Proceedings aimed at eliminating the violation of the person's rights.

4. A copy of the decision rendered as a result of the proceedings to challenge a pre-trial action shall be immediately delivered or sent to the person who filed the appeal, the Public Participant who rendered (carried out) the challenged Action of Proceedings, the Investigator, and the supervising Prosecutor.

CHAPTER 42. JUDICIAL DEPOSITION OF TESTIMONY

Article 312. Scope of the Judicial Safeguard of Deposition of Testimony

The judicial deposition of Testimony shall be performed:

1) For the purpose of securing the propriety of the confession Testimony of an, by Petition of an Investigator; or

2) For the purpose of obtaining proper Testimony from a person who is unable to attend the Court examination or if there is a reasonable presumption that he will lawfully not give Testimony during the Court examination, by Petition of an Investigator or a Private Participant in the Proceedings.

Article 313. Petition on Deposition of Testimony

1. The Petition on deposition of Testimony shall contain the justifications of its necessity, as well as information on such Participants in the Proceedings, whose participation in the deposition is necessary.

2. Materials, which will enable the participants in the deposition to properly exercise their right of cross-questioning, shall be annexed to the Petition.

3. The Court shall render a decision to reject a Petition on deposition of Testimony, if it is not justified, or if its justifications are not convincing.

Article 314. Decision to Perform Deposition of Testimony

1. If the Petition on deposition of Testimony is granted, the Court shall render a decision to perform deposition of Testimony, which shall specify the Participant in the

Proceedings, which filed such Petition, the name of the person invited to give Testimony, and the place, date, and time of the deposition.

2. The deposition of Testimony shall be scheduled within a reasonable time period, but not later than 10 days, after the rendering of the decision envisaged by Paragraph 1 of this Article.

3. In case of deposition of the Testimony envisaged by Paragraph 2 of Article 312 of this Code, the Court shall determine the date of deposition taking into consideration the time that the Participants in the Proceedings need to prepare for the cross-questioning.

4. The decision to perform deposition of Testimony shall be immediately sent to the person who filed the Petition, as well as to such Participants in the Proceedings, whose participation in the deposition is necessary. The materials envisaged by Paragraph 2 of Article 313 of this Code, too, shall be sent to such Participants.

Article 315. Procedure of Deposition of Testimony

1. The deposition of Testimony shall be performed in a Court session, in compliance with the requirements of Section 8 of this Code, *mutatis mutandis*.

2. The failure of a Participant in the Proceedings, who was duly notified, to attend shall not be an obstacle to performing judicial deposition.

3. The Court shall ensure compliance with the questioning procedure stipulated by this Code, as well as the exercise of the right of cross-questioning during the deposition of Testimony. The Court may not pose substantive questions during the deposition.

4. If an Accused has no Defender, the Court shall be obliged to explain his rights to him separately, including the right to give Testimony in the presence of a Defender. If the Accused expresses a wish to give Testimony in the presence of a Defender, the Court session shall be postponed for a reasonable time period.

5. As a result of deposition of Testimony, a questioning Protocol shall be prepared in compliance with the relevant requirements of this Code, which shall be signed by the participants in the deposition, and the presiding Judge shall confirm it with his seal.

SECTION 10. COURT EXAMINATION AT THE FIRST INSTANCE

CHAPTER 43. PRELIMINARY COURT HEARINGS

Article 316. Scheduling Preliminary Court Hearings

1. Preliminary Court hearings shall be mandatory in all Criminal Proceedings.
2. Within a two-day period of receiving the Criminal Case File, the Judge shall render a decision on assuming the proceedings and scheduling a preliminary Court hearing.
3. If the time period envisaged by Paragraph 2 of Article 208 of this Code has not been met, the Court shall, without rendering a decision on conducting a preliminary Court hearing, return the Criminal Case File to the supervising Prosecutor.
4. The decision envisaged by Paragraph 2 of this Article shall contain information about the Court and Judge that rendered it, the date of rendering such decision, and the time and place of the preliminary Court hearing.
5. In a preliminary Court hearing, the first Court session shall be scheduled within a two-week period of rendering the decision envisaged by Paragraph 2 of this Article.
6. Within a two-day period of rendering the decision envisaged by Paragraph 2 of this Article, the Judge shall send its copy to the Public Accuser, as well as to the Private Participants in the Proceedings, annexing to it a memorandum of the established form concerning the rights and obligations of the addressee. The memorandum shall also contain the list of the questions envisaged by Article 317 of this Code and clarification of the right to file Petitions in respect of them.

Article 317. Issues Subject to Discussion during the Preliminary Court Hearing

During the preliminary court hearing, the Court shall, in the sequence order stipulated by this Article, discuss the following:

- 1) The issue of Self-Recusal, Recusal, and dismissal from participation in the proceedings;
- 2) The issue of jurisdiction of the proceedings;
- 3) The issue of terminating the criminal prosecution and/or discontinuing the proceedings;

- 4) The issue of applying a restraint measure in relation to an Accused;
- 5) The issue of recognizing a Property Respondent—in case a property claim has been initiated;
- 6) In case of a Petition—the issue of applying cooperation or agreement proceedings;
- 7) The issue of the scope of Evidence subject to examination;
- 8) In case of a Petition—the issue of permissibility of the Evidence; and
- 9) Other relevant issues.

Article 318. Procedure of Conducting the Preliminary Court Hearing

1. Preliminary Court hearings shall be conducted by a single Judge, with the participation of the Public Accuser and the Private Participants in the Proceedings, subject to the provisions of Section 8 of this Code, *mutatis mutandis*, and taking into consideration the peculiarities envisaged by this Chapter.

2. After opening the Court session and hearing the report about the participants in the Court session in accordance with the procedure stipulated by this Code, the presiding Judge shall check the identity of the Participants in the Proceedings and the propriety of their authority.

3. Thereafter, the Court shall check whether a copy of the accusatory conclusion or accusatory act has been delivered to the Accused. If such document has not been delivered to the Accused, the Court shall postpone the Court session and obligate the Public Accuser immediately to deliver a copy of the accusatory conclusion or accusatory act to the Accused.

4. The Court session shall also be postponed if the accusatory conclusion or the accusatory act does not correspond to the requirements of Article 204 of this Code. When postponing the Court session based on this ground, the Court shall obligate the Public Accuser to make the accusatory conclusion or accusatory act meet the requirements of Article 204 of this Code within the time period set by the Court, to present it to the Court, and to deliver a copy thereof to the Participants in the Court Proceedings. If the Accused is in detention, the time period set by the Court shall not be longer than three days or, in other cases, longer than seven days.

5. If the grounds stipulated by Paragraphs 3 and 4 of this Article for postponing the Court session are absent, the Court shall check whether the Participants in the Court Proceedings have received the decision envisaged by Paragraph 2 of Article 316 of this Code and the memorandum envisaged by Paragraph 6 of Article 311

of this Code. If such documents have not been received, they shall be delivered immediately.

6. By Petition of a Party or at its own initiative, the Court shall provide Participants in the Proceedings the necessary clarifications of their rights and obligations.

Article 319. Discussion of the Issue of Self-Recusal, Recusal, and Dismissal from the Proceedings

1. During the preliminary Court hearings, the issues of Self-Recusal, Recusal, or dismissal from participation in the proceedings shall be discussed and solved in the cases and procedure stipulated by Chapter 8 of this Code.

2. If it becomes clear during the preliminary Court hearings that there is a basis that precludes a Judge's participation in the proceedings, the Judge shall render a decision on Self-Recusal or on accepting the Recusal expressed in respect of him, and shall transfer the Criminal Case File to the chairman of the respective Court.

Article 320. Discussion of the Issue of Jurisdiction of Proceedings

If the Court discovers during the preliminary Court hearing that the proceedings do not fall under its jurisdiction, then it shall render a decision on transferring it to the Court that has jurisdiction, specifying the legal grounds of such decision and the Court to which the proceedings are sent.

Article 321. Discussion of the Issue of Terminating the Criminal Proceedings and/or Suspending the Proceedings

1. If any of the circumstances envisaged by sub-paragraphs 3 to 7 or 10 to 14 of Paragraph 1 of Article 12 of this Code is present, provided that it can be done without examining the Evidence, the Court shall render a decision on terminating the criminal prosecution or discontinuing the proceedings. If the circumstance precluding the criminal prosecution concerns one Accused person, then the criminal prosecution shall be terminated only in respect of such person.

2. The decision to terminate the criminal prosecution shall abolish the coercive measures applied in respect of such Accused person and, in case of suspending the proceedings, also the coercive measures applied in respect of other

persons. The decision to suspend the proceedings shall also solve the issue of disposing of the Physical Evidence.

3. A copy of the decision to terminate criminal prosecution and/or suspend the proceedings shall be sent to the Public Accuser and the Private Participants in the Proceedings.

Article 322. Discussion of the Issue of Applying a Restraint Measure in Relation to an Accused

During the preliminary Court hearing, the Court shall discuss the issue of abolishing or changing or prolonging the term of a restraint measure applied in relation to the Accused during the Pre-Trial Proceedings or, if a restraint measure has not been applied, then the issue of applying a restraint measure.

Article 323. Discussion of the Issue of Recognizing a Property Respondent

1. During a preliminary Court hearing based on a property claim initiated under the procedure envisaged by Chapter 20 of this Code, the Court shall solve the issue of recognizing a person as a Property Respondent.

2. If it is necessary to apply a measure for securing the claim, the issue shall be solved in the decision on recognizing a Property Respondent.

3. If a person is recognized as a Property Respondent, the Court shall send him copies of the claim and the annexed materials, as well as a copy of the decision to recognize a Property Respondent and a memorandum of the established form concerning the rights and obligations of a Property Respondent. The memorandum shall also contain the list of the questions envisaged by Article 317 of this Code and clarification of the right to file Petitions in respect of them.

4. If a person is recognized as a Property Respondent, the Court session shall be postponed by a reasonable time period, giving the Property Respondent the possibility of exercising his rights under this Code. Moreover, the Court shall decide the date and time of the next Court session and give proper notice thereof to the Parties, including the Property Respondent.

Article 324. Discussion of the Issue of Applying Cooperation or Agreement Proceedings

1. If the Public Accuser has filed a Petition on applying cooperation proceedings, the Court shall conduct a discussion of the issues envisaged by Chapter 56 of this Code.

2. If the Public Accuser has filed a Petition on applying agreement proceedings, the Court shall conduct a discussion of the issues envisaged by Chapter 55 of this Code.

Article 325. Discussion of the Issue of the Scope of Evidence Subject to Examination

1. During the preliminary Court hearing, the Parties shall, when demanded by the Court, present their proposals regarding the scope of Evidence subject to examination in the principal hearing. Each of the Parties shall be obliged to substantiate what factual circumstance of significance to the rendering of the verdict is confirmed or refuted by each piece of Evidence proposed by it for examination.

2. The Court shall render a decision in case of rejecting a Party's proposal regarding the examination of any Evidence.

3. After discussing and solving all the proposals envisaged by Paragraph 1 of this Article, the Court shall render a decision on defining the scope of Evidence, fixing the sequence order of examining the Evidence in the principal hearing and the list of the Evidence subject to examination, in the sequence order specified in each proposal.

4. When defining the sequence order of examining Evidence in the principal hearing, the Court shall abide by the following rules:

1) At first, the Court shall examine the Evidence presented by the Accusation Party, followed by the Evidence presented by the Defense Party;

2) The Evidence presented by a Victim or his representative shall be examined after examining the Evidence presented by the Public Accuser;

3) The Evidence presented by a Property Respondent or his representative shall be examined after examining the Evidence presented by the Accused and the Defender; and

4) If several Victims, Accused persons, or Property Respondents participate in the proceedings, then the sequence order of examining the Evidence presented by them shall be determined by the Court, taking into consideration the opinions of the Parties.

5. The scope of the Evidence subject to examination may be supplemented in the procedure stipulated by Article 340 of this Code.

Article 326. Discussion of the Issue of Permissibility of Evidence

1. After defining the scope of Evidence subject to examination under the procedure stipulated by Article 325 of this Code, the Court shall, if a respective Petition has been filed by the Parties, discuss and solve, in accordance with the procedure stipulated by this Code, the issue of permissibility of the Evidence specified in such Petition.

2. When discussing the issue of permissibility of the Evidence, its substance shall not be examined. If the decision on permissibility of Evidence requires examination of the substance of the Evidence in question or any other Evidence, then the resolution of the Petition to declare the Evidence as impermissible shall be postponed and conducted during the principal hearing under the procedure stipulated by Article 341 of this Code.

3. The Court shall render a decision in the form of a standalone document on recognizing Evidence as impermissible.

4. Impermissible Evidence shall be removed from the list of Evidence subject to examination, but shall be retained in the Criminal Case File.

Article 327. Discussion of Other Relevant Issues

1. After discussing and solving the issues envisaged by Paragraphs 1 to 8 of Article 317 of this Code, the Parties shall have the right to file a Petition on examining other relevant issues during the preliminary Court hearing, as well.

2. The Court may examine any other relevant issue during the preliminary Court hearing.

Article 328. Scheduling a Principal Hearing

1. After completing the discussion of all the issues envisaged by Article 317 of this Code, the Court shall render a decision on scheduling a principal hearing.

2. The decision on scheduling a principal hearing shall contain the number of the proceedings, relevant information about the Accused, the legal assessment of the act attributed to the Accused (the relevant Article of the Criminal Code of the Republic

of Armenia or Paragraph or sub-paragraph), and information about the publicity of the principal hearing and the time and place of conducting the first Court session.

3. The first Court session shall be convened within 10 days of rendering the decision on scheduling a principal hearing. In the meantime, the Court shall take measures to ensure the proper conduct of the principal hearing.

CHAPTER 44. PRINCIPAL HEARINGS

Article 329. The Beginning of a Principal Hearing

A principal hearing shall begin by opening a Court session and hearing a report on the Participants in the Proceedings under the procedure stipulated by Paragraph 2 of Article 273 of this Code. Thereafter, the presiding Judge shall instruct the witnesses attending the Court session to move to a special room before their questioning, and shall instruct the judicial bailiffs to take measures to ensure that the witnesses that have not been questioned yet do not communicate with witnesses that have already been questioned or other persons present in the courtroom.

Article 330. Opening Statement of the Parties

1. Prior to starting the examination of the Evidence, the Public Accuser shall be the first to make an opening statement, followed by the Defender or the Accused carrying out his own defense, if the Defender or the Accused, respectively, so wishes.

2. In his opening statement, the Public Accuser shall present the factual basis of the Accusation, as well as the legal assessment of the act attributed to the Accused.

3. In his opening statement, the Defense Party shall present his position regarding the Accusation. The presiding Judge shall have the power to ask questions to precise the position of the Accused.

4. Immediately after presenting the opening statements, the Court shall proceed to examine the Evidence.

Article 331. General Rules of Evidence Examination

1. The Evidence shall be examined in the sequence order prescribed for the preliminary Court hearings.

2. A Party shall have the right to present Physical Evidence included in the list of Evidence presented by him and subject to examination, or Protocols of Proving Actions and other Actions of Proceedings, or off-proceedings documents to be examined earlier than the prescribed sequence order, during the questioning.

3. A Party shall have the right to present Physical Evidence included in the list of Evidence subject to examination, or Protocols of Proving Actions and other Actions of Proceedings, or off-proceedings documents to the questioned person, without any examination, and pose written questions thereon.

4. Each Party shall have the right, during the examination of the Evidence, to file a Petition requesting the Court to limit further examination of the Evidence presented by it. The Court shall reject the Petition, if it finds that it can cast doubt on the fairness of the proceedings.

Article 332. General Procedure of Questioning

1. Before starting the questioning, the presiding Judge shall determine the identity of the questioned person and his relationship with the Participants in the Proceedings, and shall explain his rights and obligations under this Code in respect of giving Testimony, as well as the liability prescribed for the failure to honor such obligations. To this end, the questioned person shall place his signature in the Protocol of the Court session.

2. The questioned person may, if he so wishes, take the following oath of truthfulness: "I, [name and surname], hereby vow, when giving Testimony, to tell the truth, the whole truth, and nothing but the truth."

3. A person called for questioning shall be first questioned by the Party that filed the Petition to invite the person (direct questioning). After the initial questioning, the person may be questioned by the other Party (cross-questioning). The presiding Judge shall have the right to pose questions to the person after the direct questioning and cross-questioning are over. A person called at the Court's initiative shall be first questioned by the presiding Judge, followed by the Accusation Party and the Defense Party.

4. Posing leading questions shall be prohibited during the direct questioning. A Party may object to a leading question. The presiding Judge may, based on a Party's Petition or by his own initiative, remove leading questions or questions not related to the proceedings.

5. Posing leading questions shall be lawful during the cross-questioning.

6. The questioned person may use notes or records while being questioned, which shall be presented to the Court if demanded by the presiding Judge and may be annexed to the materials of the proceedings.

7. After examining all of the presented Evidence, the person who testified in Court may, based on a Party's Petition or at the Court's initiative, be questioned again.

Article 333. Special Procedure of Questioning

1. In exceptional cases when the presence of the person subject to questioning in Court is impossible or can undermine such person's security or the credibility of the Testimony, or when it is necessary to protect the legitimate interests of a minor Victim or witness, the Court may, based on a Party's Petition or at its initiative, perform the questioning using technical means of telecommunication (video conferencing).

2. The ability of the Participants in the Court Proceedings and the testifying person who is located elsewhere to hear and see each other clearly shall be safeguarded during any questioning performed by video conferencing.

3. At the location of the questioned person, the questioning by video conferencing shall be secured by a person chosen by the Court.

4. Before starting the questioning by video conferencing, the presiding Judge shall announce:

1) The date and time of performing the questioning, as well as information about the proceedings in the framework of which such questioning is performed;

2) The whereabouts of the questioned person, unless disclosing such information can undermine the security of the questioned person;

3) The name, patronymic, surname, status, and whereabouts of the questioned person,

4) The name and surname of the official securing the performance of the questioning; and

5) The technical means used during the questioning.

5. After completing the questioning under a special procedure, the presiding Judge shall ask the Parties whether they have any Objections regarding the course or manner of performing the questioning.

6. An electronic medium of the video recording of the questioning performed by video conferencing shall be annexed to the Court session Protocol.

Article 334. Peculiarities of the Questioning Procedure Depending on the Status of the Questioned Person

1. Witnesses shall be questioned separately from one another and in the absence of the witnesses not questioned yet. By Petition of a Party or at his initiative, the presiding Judge may demand a questioned witness not to leave the courtroom until the end of the Court session.

2. If a special protection means envisaged by Article 76 of this Code has been applied in respect of a witness or a Victim, then the questioning shall be performed outside the sight of other Participants in the Court Proceedings and without exposing the real personal data of the witness, about which a decision shall be rendered. To ensure the exercise of the Accused person's right to defense or the fairness of the proceedings, the Court may, by Petition of a Party, provide to such Party such real data about the questioned person, the discovery of which cannot undermine the security of such person or his close one.

3. If a Victim also has the status of an Accused, then he shall be questioned in accordance with the rules of questioning an Accused.

4. Questioned shall be posed to an expert immediately after examining the conclusion or opinion issued by him.

5. An Accused may be questioned if any of the Parties has filed such a Petition, and the Accused has confirmed, during the preliminary Court hearing, his intention to give Testimony. At any time during the Court examination, the Accused may declare that he wishes to give Testimony.

Article 335. Peculiarities of Questioning a Victim or a Witness Who is a Minor

1. The questioning of a Victim or a witness who is a minor shall be performed with the participation of his Lawful Representative.

2. Before starting to question a Victim or a witness who is under the age of 16, the presiding Judge shall explain to him the importance of giving truthful and complete Testimony for the fair conduct of the proceedings, but shall not warn him about the liability prescribed for refusing to give Testimony or for giving false Testimony.

3. At the end of the questioning, the Lawful Representative shall have the right, with the presiding Judge's permission, to pose questions to a minor Victim or witness.

Article 336. Disclosing the Testimony during the Court Examination

1. Disclosure of Testimony given during the Pre-Trial Proceedings or in Court by Petition of a Party and based upon the Court's decision in compliance with the requirements prescribed by this Code, as well as annexes thereto (drawings, sketches, schemes, photos, audio and video recordings, video shoots, and films) shall be permitted if:

- 1) The person's Testimony was deposited during the Pre-Trial Proceedings in accordance with the requirements of this Code;
- 2) There is a material inconsistency between the person's Testimony given in Court and his past Testimony;
- 3) Exercising his constitutional right, the Accused has lawfully refused to give Testimony in Court; or
- 4) The person has deceased, and there was no reasonable necessity of depositing such person's Testimony during the Pre-Trial Proceedings due to a grave illness.

2. A person's past Testimony may be disclosed only after completing his questioning in Court or confirming that such questioning is impossible. Examining annexes to the Testimony shall be prohibited prior to the disclosure of Testimony.

3. Testimony given by the Accused during the Pre-Trial Proceedings outside the deposition procedure may not be disclosed, if it was obtained in the absence of a Defender, and the Accused claimed in Court that it was erroneous.

Article 337. Examination of Physical Evidence, Protocols of Proving Actions and Other Actions of Proceedings, and Off-Proceedings Documents

1. Physical Evidence shall be examined by means of observation. The Party that presented the Physical Evidence shall be the first to observe it, followed by the other Party, followed by the Court. The Parties shall have the right to draw the Court's attention to material factual circumstances discovered as a result of observing the Physical Evidence. Physical Evidence located outside the courtroom shall be examined at its location.

2. The Protocol of a Proving Action or another Action of Proceedings, as well as off-proceedings documents shall be examined by means of disclosure. Disclosure of the relevant part shall be performed by the Party that presented it. The other Party shall

have the right to draw the Court's attention to material factual circumstances in the non-disclosed part of the respective Protocol or other document, and disclose them.

3. Objects and documents received by means of the Court's demand based on a Party's Petition shall be examined under the procedure prescribed by Paragraphs 1 and 2 of this Article. Objects received at the Court's initiative shall be first observed by the presiding Judge, followed by the Accusation and Defense Parties. The relevant part of a document obtained at the Court's initiative shall be disclosed by the presiding Judge.

4. When, as a result of examining the Physical Evidence or the Protocol of a Proving Action or another Action of Proceedings, as well as off-proceedings documents, a Party challenges its permissibility, or the Court has developed reasonable suspicion regarding the credibility of the respective Evidence, the Court may decide to invite the person who obtained or compiled such Evidence for question, and such person shall be questioned under the rules prescribed for questioning witnesses.

5. When there is a *prima-facie* violation of the procedure of obtaining and documenting Evidence as defined by Paragraph 4 of this Article, such Evidence may not be used without questioning the person who obtained or compiled it.

Article 338. Examining the Conclusion and Opinion of an Expert

1. The conclusion and opinion of an expert shall be examined by means of disclosure. Disclosure of the relevant part shall be performed by the Party that presented it. The other Party shall have the right to draw the Court's attention to material factual circumstances that exist in the non-disclosed part of the respective document, and disclose them.

2. The expert's conclusion received by means of the Court's demand based on a Party's Petition shall be examined under the procedure prescribed by Paragraph 1 of this Article. The relevant part of an expert's conclusion obtained at the Court's initiative shall be disclosed by the presiding Judge.

3. When a Party has filed a Petition to question the expert who issued the conclusion or opinion, such Evidence may not be used without questioning such expert.

Article 339. Performance of Other Proving Actions

1. By Petition of a Party or at its own initiative, the Court shall have the power to order an expert examination in compliance with the relevant rules prescribed by Articles 259 to 265 of this Code.

2. The Party filing a Petition to order an expert examination shall present, in writing, the questions to be posed to the expert, information about the expert institution or the person to be engaged as an expert, and the objects or documents needed for the expert examination.

3. When ordering an expert examination at the Court's initiative, the presiding Judge shall propose to the Accusation and Defense Parties to present the questions to be posed to the expert, and to express an opinion about the potential expert institution or expert and the objects or documents to be presented for the expert examination.

4. By Petition of a Party or at its own initiative, the Court shall have the power to demand from state and local self-government bodies and officials, natural persons, legal entities, and other organizations any objects, documents, or information needed for the fair conduct of the proceedings. Objects and documents received upon the Court's demand shall be examined under the procedure stipulated by Article 337 of this Code.

5. By Petition of a Party or at its own initiative, the Court shall have the power to perform inspection or examination of a site, building, or vehicle, an experiment, recognition, and exhumation, unless such Proving Actions were performed during the Pre-Trial Proceedings, or if the Court considers that examining the Protocols compiled during the Pre-Trial Proceedings concerning their performance will be insufficient for the fairness of the proceedings.

6. The actions envisaged by Paragraph 5 of this Article shall be performed in compliance with the relevant rules envisaged by this Code, with the participation of the Parties and, if the Court so decides, also the witness and the expert.

Article 340. Supplementing the Body of Evidence Subject to Examination

1. After examining all the Evidence presented, the Court shall ask the Parties whether they are filing a Petition to supplement the body of Evidence subject to examination.

2. In case of initiating a Petition to supplement the body of Evidence subject to examination, the Party shall justify what additional Evidence is to be examined and what factual circumstance it is intended to confirm or refute.

3. The Court shall render a decision in case of rejecting the Petition. In case of granting the Petition, the Evidence examination shall continue.

4. When a Petition to supplement the body of Evidence subject to examination is not initiated, or if it is rejected by a decision, the Court shall have the power, at its initiative, to take measures to supplement the body of Evidence subject to examination, if it considers that the failure to do so may cast doubt on the fairness of the proceedings.

Article 341. Discussion of the Issue of Evidence Impermissibility

1. After examining all the Evidence, the Court shall ask the Parties whether they are filing a Petition to recognize any of the examined Evidence as impermissible.

2. In case of granting the Petition, the Court shall render a decision on recognizing such Evidence as impermissible, in the form of a standalone document. In case of rejecting the Petition, the Court shall render a decision.

3. After discussing and solving the issue of the Petitions envisaged by Paragraph 1 of this Article, the Court shall have the power, at its initiative, to recognize any of the examined Evidence as impermissible, rendering a decision about it in the form of a standalone document.

Article 342. Completing the Examination of Evidence

1. After discussing and solving the issue of Evidence impermissibility, and if the Public Accuser has not filed a Petition to change or supplement the Accusation, the Court shall complete the Evidence examination and announce about moving to the closing speeches of the Parties.

2. The Court shall clarify to the Parties that, the Parties in their closing speeches, and the Court in rendering a Judicial Act, may rely only on such Evidence that was examined during the Court examination and may not cite or use Evidence recognized as impermissible.

3. Having heard the opinion of the Parties, the Court shall give them a reasonable time period to prepare for the closing speeches.

Article 343. Content and Procedure of Closing Speeches

1. The closing speeches of the Parties shall consist of the speeches of the Public Accuser and the Defender. If no Defender participates in the Court Proceedings, the Accused shall make a closing speech.

2. Closing speeches may also be made by a Victim, his representative, an Accused, his Lawful Representative, or a Property Respondent or his representative in case of initiating a Petition on making such a speech.

3. The closing speeches shall start with the Public Accuser's speech, followed by the speeches of other representatives of the Accusation Party. It shall be followed immediately by the closing speeches of representatives of the Defense Party.

4. If several Public Accusers, Defenders, Accused persons, Victims, Property Respondents, or several of their representatives are to make closing speeches, the presiding Judge shall propose that they determine the sequence order of their speeches. If these persons do not reach agreement on the sequence order of their closing speeches, the Court shall determine the order.

5. In their speeches, the Parties may not rely on Evidence that was not examined prior to starting the closing speeches or Evidence that was recognized as impermissible.

6. The presiding Judge may interrupt the person making a speech, if he addresses circumstances not related to the proceedings or Evidence that was not examined prior to starting the closing speeches or Evidence that was recognized as impermissible.

7. After the end of all the speeches, every person who has made a closing speech shall have the right to briefly once present his comments about issues raised therein. The Defender and the Accused shall be the last to exercise this right.

Article 344. Discussion of the Issue of Application and Construal of the Law

1. A person who made a closing speech shall have the right, before the Court moves to a separate room, to present to the Court, in writing, the substantiation or wording suggested by him concerning the application and construal of the law in respect of the issues to be solved by the Court under Paragraphs 1 and 6 of Article 348 of this Code, but such suggestion shall not be binding for the Court.

2. The Court may pose questions to the persons that made closing speeches about the examined factual circumstances in respect of the application or construal of the law.

3. After hearing all the closing speeches, the Court may hold a separate consultation on the application or construal of the law, with the participation of the Accuser, the Defender, and, if necessary, also the Victim's Authorized Representative.

4. When discussing any issue related to the application or construal of the law in the manner envisaged by Paragraphs 2 or 3 of this Article, the Court shall be obliged to refrain from expressing a position on the Accusation.

Article 345. Conclusive Statement of the Accused

1. After hearing the closing speeches, the presiding Judge shall propose that the Accused make a conclusive statement. The Accused may waive the exercise of such right. Questions may not be asked while the Accused is making his conclusive statement.

2. The presiding Judge may interrupt the Accused, if he addresses circumstances that are obviously not related to the proceedings.

Article 346. Resuming the Examination of Evidence

1. If a Participant in the Proceedings during his final speech, or an Accused in his conclusive statement, expresses new circumstances of material significance to the proceedings or presents for examination new Evidence unknown to him in the past, the Court shall have the power, prior to moving to a separate room, in view of the need for fairness of the proceedings, to render a decision on resuming the examination of Evidence.

2. After completing the resumed examination of Evidence, the Court shall again proceed to hear the closing speeches and the conclusive statement of the Accused.

Article 347. The Court Moving to a Separate Room

After hearing the conclusive statement of the Accused, the Court shall move to a separate room for entering into the verdict, after announcing the place, date, and time of publishing it.

Article 348. Issues to be Solved by the Court when Rendering the Verdict

1. When rendering a verdict, the Court shall solve the following issues in the sequence order presented below:

1) Whether the factual circumstances (act) attributed to the Accused have been proven;

2) Whether the public dangerousness of such act and its criminal unlawfulness have been proven;

3) Whether the commission of such act by the Accused has been proven;
and

4) Whether the guilt of the Accused in committing such act has been proven.

2. As a result of answering the questions specified in Paragraph 1 of this Article, the Court shall render an acquitting or convicting verdict.

3. In case of giving a negative answer to any of the questions stated in Paragraph 1 of this Article, the Court shall render an acquitting verdict.

4. In case of affirmatively answering all the questions stated in Paragraph 1 of this Article, the Court shall render a convicting verdict, in which it shall also specify the Article, paragraph, or sub-paragraph of the Criminal Code, which is applicable to the proven act.

5. A convicting verdict may not be based on assumptions and shall be rendered only when the guilt of the Accused in committing the crime has been proven during the Court examination. The guilt of the Accused in committing the crime may be deemed proven, if the Court, with due respect for the presumption of innocence, relied on the results of the proper Proving to reach an inference about the guilt of the Accused.

6. When the issue of the culpability of the Accused or his ability to account for and control his actions during the proceedings arose during the Preliminary Investigation or the Court examination, in respect of which a medical psychological expert examination has been ordered, the Court shall be obliged to discuss the issue of the culpability of the Accused once again.

7. If the Court finds that the Accused was in an inculpable state when committing the act, or developed a mental illness after committing the crime, which deprived him of the ability to ability to account for or control his actions, the Court shall render a decision on applying compulsory medical measures.

Article 349. Resuming the Examination of Evidence

1. If the Court finds, while discussing the issues stated in Paragraphs 1 and 6 of Article 348 of this Code, that solving them requires examining Evidence, then it shall render a decision on resuming the examination of Evidence. After completing the resumed examination of Evidence, the Court shall once again hear the closing speeches of the Parties and the conclusive statement of the Accused, after which it shall again move to a separate room for rendering the verdict.

2. If the Court finds, while discussing the issue mentioned in Paragraph 4 of Article 348 of this Code in a separate room, that its fair solution requires the Parties discussing any issue of the application or construal of the law, then the Court shall render a decision o resuming the closing speeches. After posing questions to the Parties and hearing their opinions thereon, the Court shall again move to a separate room for rendering the verdict.

Article 350. Publishing the Verdict

1. The verdict shall be published in a Court session.
2. After publishing the verdict, the Court shall set the date and time of the first Court session for an additional Court hearing, and inform the Parties that they shall have the right, prior to the next Court session, to present Petitions to the Court on Evidence subject to examination in the additional Court hearing.
3. If an acquitting verdict is rendered, and the Accused is in detention, the Court shall immediately release him from detention from the courtroom.
4. If a convicting verdict is rendered, the Court shall have the power to apply a restraint measure in respect of the Accused or to replace a restraint measure already applied with a more stringent one.
5. The first Court session in the additional Court hearings shall be scheduled within a two-week period.

CHAPTER 45. ADDITIONAL COURT HEARINGS AND THE RENDERING A JUDGMENT

Article 351. Issues Subject to Discussion during the Additional Court Hearings

1. During the additional Court hearings, the Court shall discuss:
 - 1) The issue of the Rehabilitation of the Acquitted Accused;
 - 2) Issues concerning circumstances mitigating or aggravating the liability of the Convicted Accused, and circumstances characterizing him as a person;
 - 3) Issues related to the sentence;
 - 4) The issue of solving the property claim;
 - 5) The issue of compensating damage inflicted by the crime;
 - 6) Issues related to the seizure of property;

- 7) Issues related to the keeping and disposing of Evidence;
- 8) Issues related to the application of a restraint measure;
- 9) Issues related to the costs of proceedings; and
- 10) Other relevant issues.

2. The issue specified in sub-paragraph 1 of Paragraph 1 of this Article shall be discussed only in case of an acquitting verdict. The issues envisaged by sub-paragraphs 2, 3, 5, and 8 of Paragraph 1 of this Article shall be discussed only in case of a convicting verdict.

Article 352. Procedure of Conducting Additional Court Hearings

1. Additional Court hearings shall be conducted by a single Judge, with the participation of the Public Accuser and the Private Participants in the Proceedings, subject to the provisions of Section 8 of this Code, *mutatis mutandis*, and taking into consideration the peculiarities envisaged by this Chapter.

2. The absence of the Public Accuser and the Private Participants in the Proceedings shall not be an obstacle to conducting the additional Court hearing, unless the Court decides otherwise.

3. After opening the Court session in accordance with the procedure stipulated by this Code, the Court shall discuss the issues envisaged by Article 351 of this Code and examine the Evidence necessary for it. In any event, the permissible Evidence that is in the Criminal Case and has not been examined shall be examined, if it concerns the issues envisaged by Article 351 of this Code.

4. After completing the discussion of the issues envisaged by Article 351 of this Code, the Court shall announce the place, date, and time of publishing the judgment and move to a separate room for rendering the judgment.

Article 353. The Judgment

1. A judgment shall be rendered in the name of the Republic of Armenia.

2. A judgment shall be lawful and founded.

3. A judgment shall be lawful if rendered in compliance with the requirements of the Republic of Armenia Constitution, this Code, and laws the provisions of which are applicable to the conduct of the respective proceedings.

4. A judgment shall be founded if:

1) The Court's inferences are based only on the examined permissible Evidence;

2) Factual circumstances found by the Court correspond to the Evidence examined in Court; and

3) All the inferences stated in the judgment and the decisions are properly reasoned.

5. A judgment may be an acquitting judgment or a convicting judgment.

6. An acquitting judgment shall be rendered on the basis of an acquitting verdict. An acquitting judgment shall recognize and declare the innocence of the Accused for committing the crime on the basis of the factual circumstances underlying the Accusation.

7. A convicting judgment shall be rendered on the basis of a convicting verdict and shall contain the Court's decision on recognizing the Accused as guilty of committing the crime and sentencing him and, in the cases envisaged by this Code, not imposing a sentence or exempting from the sentence.

Article 354. Content of a Judgment

1. A judgment shall contain the answers to the following questions:

1) Whether the factual circumstances (act) attributed to the Accused has been proven;

2) Whether the public dangerousness of the act and its criminal unlawfulness have been proven;

3) Whether it has been proven that the Accused has committed the act;

4) Whether the guilt of the Accused in committing the act has been proven;

5) What measures have to be undertaken for the Rehabilitation of the Acquitted Accused;

6) Which Article, Paragraph, or sub-paragraph of the Criminal Code is to be applied in respect of the act of a Convicted Accused;

7) Whether the circumstances aggravating or mitigating the liability of the Convicted Accused have been proven;

8) Whether the Convicted Accused is subject to sentencing for the crime committed by him;

9) What sentence is to be imposed in respect of the Convicted Accused;

10) Whether the Convicted Accused shall serve the sentence imposed on him;

11) Whether the property claim is to be granted, in whose favor, and in what amount, and whether the inflicted property damage is to be compensated, if a property claim has not been initiated;

12) Whether the property seizure applied will be abolished or, if no seizure has been applied, whether seizure is to be applied;

13) How the Evidence is to be kept and disposed;

14) Whether any restraint measure is to be abolished, changed, or applied in respect of the Convicted Accused; and

15) Upon whom and in what amount the costs of the proceedings will be imposed.

2. When rendering a judgment, the Court shall, depending on whether or not the property claim grounds and amount have been proven, fully or partially grant the initiated claim or reject it or leave it without solution. In case of granting the property claim, the Court shall have the right, prior to the entry into legal force of the judgment, to render a decision on undertaking measures for securing the claim, unless such measures had been undertaken previously.

3. When rendering a judgment, the Court shall, if necessary, have the power to apply compulsory treatment from alcoholism and toxicomania in respect of a Convicted Accused.

4. In case of several Accused persons, the answers to all the relevant questions provided in this Article shall be stated separately for each of the Accused persons.

Article 355. Structure of a Judgment

1. A judgment shall consist of the introductory part, the descriptive part, the reasoning part, and the conclusive part.

2. The introductory part of a judgment shall state:

1) That the judgment has been rendered in the name of the Republic of Armenia;

2) The time and place of rendering the judgment;

3) The name and composition of the Court that rendered the judgment, and the names of the Court session secretary, the Public Accuser, and the Private Participants in the Proceedings;

4) The name, patronymic, surname, birth year, month, day, and place of the Accused, his family status, work place, occupation, education, and other relevant information; and

5) The Criminal Code Article, Paragraph, or sub-paragraph that prescribes the crime for the commission of which the Accusation has been presented to the Accused.

3. The descriptive part of a judgment shall state:

1) The factual description of the Accusation;

2) The permissible Evidence examined during the Court examination;

3) The Court's factual analysis; and

4) The factual circumstances found by the Court on the basis of the examined Evidence.

4. The reasoning part of a judgment shall state:

1) The law applied, including the international treaties;

2) The Court's legal analysis;

3) The Court's inferences and their legal justifications; and

4) The provisions of the law, which the Court followed when rendering the judgment.

5. The conclusive part of the Judgment shall state:

1) The Court's decisions; and

2) The procedure of appealing the judgment.

6. The presiding Judge shall sign the judgment as a whole and each page thereof.

Article 356. Publishing a Judgment

1. A judgment shall be published at the pre-announced place and time. Everyone present in the courtroom shall stand while listening to the judgment.

2. The presiding Judge shall publish the judgment as a whole or only its conclusive part.

3. If a Private Participant in the Proceedings does not master the language of the proceedings, then a translator shall interpret the conclusive part of the judgment when the judgment is published.

4. After publishing the judgment, the presiding Judge shall clarify the procedure and time period of appealing the judgment, and provide other necessary clarifications. When applying the sentence of life imprisonment, the right to file a Petition for a pardon shall be explained to the Convicted Accused.

5. If the Convicted Accused is in detention, then the Court shall immediately release him from the courtroom in case of exempted him from serving the sentence,

conditionally not applying the sentence, postponing the serving of the sentence, applying a sentence that is not related to imprisonment, or convicted the Accused to imprisonment for a term that does not exceed the time actually spent in deprivation of liberty.

6. Not later than within five days of publishing the judgment, its copy shall be delivered to the Convicted or Acquitted Accused, his Defender, and the Public Accuser. A copy of the judgment shall be delivered to the Victim, the Property Respondent, and their representatives within the same time period, if they have filed a Petition thereon.

Article 357. Additional Decision of the Court

1. If the relevant grounds are present, the Court shall be obliged, together with the judgment, to render an additional decision drawing the attention of the respective officials of the state body to material violations that emerged during the Court examination, but were committed during the Pre-Trial Proceedings.

2. An additional decision may, at the Court's discretion, be published in a Court session.

3. The additional decision shall be sent to the supervisor of the official who committed the violation or, if there is no such supervisor, then to the official who committed the violation. An official who receives an additional decision shall be obliged, not later than within a one-month period of receiving the decision, to discuss it and to take appropriate measures to eliminate the existing violations or to preclude similar violations.

SECTION 11. JUDICIAL REVIEW

CHAPTER 46. GENERAL CONDITIONS OF JUDICIAL REVIEW

Article 358. Institutions of Judicial Review

1. Judicial review may be performed only in the framework of the institutions envisaged by this Article.

2. Review shall be applied when a first instance Court's judgments and decisions to discontinue the proceedings are being appealed, with the exception of cases of extraordinary review.

3. Cassation shall be applied when an appellate Court's judgments and other Conclusive Judicial Acts rendered as a result of appellate review, with the exception of cases of extraordinary review.

4. Special review in an appellate Court shall be applied when there is an appeal against a first instance Court's Judicial Acts envisaged by Paragraph 1 of Article 396 of this Code, which have not entered into legal force.

5. Special review in the cassation Court shall be applied when there is an appeal against Judicial Acts rendered as a result of special review in an appellate Court, with the exception of cases of extraordinary review.

6. Extraordinary review shall be applied when Judicial Acts envisaged by Paragraph 2 of Article 407, which have entered into legal force, are being appealed on the basis of new circumstances or a fundamental violation.

Article 359. Right to Lodge a Judicial Appeal for Review

1. With the exception of extraordinary review, persons that are Private or Public Participants in the Proceedings at the time of appeal, a higher-ranking Prosecutor, and persons that did not participate in the proceedings shall have the right to lodge a judicial appeal for review.

2. The Prosecutor General of the Republic of Armenia and his deputies shall have the right to lodge an appeal for review to the cassation Court.

3. A judicial appeal for review may be lodged by or for the benefit of Private Participant in the Proceedings or persons that did not participate in the proceedings only in respect of the part of the Judicial Act, which concerns the private interests of such persons.

4. Public Participant in the Proceedings may lodge a judicial appeal for review only in respect of the part of the Judicial Act, which concerns public interests.

Article 360. Grounds of a Judicial Appeal for Review

The following are the grounds of a judicial appeal for review:

- 1) A judicial mistake: a violation of the international law or substantive law or a material violation of the procedural law, which could affect the outcome of the proceedings; and
- 2) The existence of any factual or legal circumstance, which can affect the lawfulness of the Judicial Act.

Article 361. Judicial Appeal for Review

1. A judicial appeal for review shall contain:
 - 1) The name of the Court to which the appeal is addressed;
 - 2) Information about the person lodging the appeal, stating his status and place of residence or whereabouts;
 - 3) The Judicial Act appealed and the name of the Court that rendered it;
 - 4) Information about whether the Judicial Act is appealed as a whole or partially;
 - 5) The ground of the appeal, the facts confirming it, the demand, and the arguments substantiating them;
 - 6) A list of the materials annexed to the appeal; and
 - 7) The signature of the person lodging the appeal.
2. In case of judicial review implying the existence of a clear time period for appeal, an additional judicial appeal for review may be lodged before the end of the time period for appeal, which shall contain:
 - 1) The information stated in sub-paragraphs 1, 2, 3, 6, and 7 of Paragraph 1 of this Article;
 - 2) The year, month, and day of lodging the original appeal; and
 - 3) The additional ground of the appeal, the additional facts confirming the ground of the appeal, and the additional arguments substantiating them.
3. The grounds of a judicial appeal for review and the facts confirming them shall be presented only in the appeal and may not be changed or supplemented during the Court Proceedings. In the cases envisaged by this Code, the Court shall have the

power to surpass the limits of the appeal for the benefit of the Accused, if the appeal meets the requirements envisaged by this Article.

Article 362. Withdrawing a Judicial Appeal for Review

1. The person who lodged the appeal and the person for the protection of whose interests the appeal is lodged shall have the right to file a Petition and to withdraw the appeal before the presiding Judge or any of the Judges has reported it in a Court session. A Defender may not withdraw the appeal without the consent of the person defended by him. An appeal lodged by the Prosecutor may be withdrawn also by a higher-ranking Prosecutor.

2. In case of cassation, a Petition to withdraw an appeal may be not granted, if the examination of the appeal is of fundamental significance for ensuring the consistent application of the law.

Article 363. Court Hearing Based on a Judicial Appeal for Review

1. The failure of the Participants in the Proceedings to appear shall not be an obstacle to conducting the Court hearing based on a judicial appeal for review.

2. After opening the Court session, the presiding Judge shall declare the proceedings within the framework of which the appeal is being examined and the appeal that is being examined. Then, by Instruction of the presiding judge, the Court session secretary shall make a report about the Participants in the Proceedings, which are attending. Then, the presiding Judge or one of the Judges shall make a report stating the course of the proceedings, the material facts, the ground of the appeal, the facts confirming it, the demand made in the appeal, and the due response to the appeal.

3. If the Participants in the Proceedings attending the Court session wish to provide an Explanation, such a possibility shall be given to them. Questions may be posed to the person that provided an Explanation, the person that lodged the appeal, and the person that presented a due response, first by the Judges, and then, with the Court's permission, by the other Participants in the Proceedings. If several Participants wish to provide an Explanation, the Court shall determine the sequence order of presenting Explanations.

4. After giving a possibility to present Explanations, the Court shall move away for rendering a decision.

5. Paragraphs 3 and 4 of this Article shall not apply to appellate review.

Article 364. Rendering a Conclusive Judicial Act by a Collective Bench Based on a Judicial Appeal for Review

1. When rendering a Conclusive Judicial Act by a collective bench based on a judicial appeal for review, only the Judges that are members of the judicial bench in the proceedings in question may be present separate room during the deliberation of the Judges. The presence of other persons shall be prohibited. The Judges may not publicize the opinions expressed during such deliberation.

2. The presiding Judge shall propose issues for the Court to solve in the sequence order envisaged by this Code. The first proposal to be voted shall be the one that is the most favorable for the Accused.

3. Every Judge shall provide an affirmative or negative answer to each question. Judges may not refrain from voting. The presiding judge shall vote at the end. Questions shall be solved by simple majority vote. In case of a tie of votes, the decision that is the most favorable for the Accused shall be deemed taken.

4. The Judicial Act shall be signed by all the Judges. A Judge who disagrees with the opinion of the majority regarding the conclusive part of the Judicial Act shall not sign the Judicial Act, but, in such case, shall be obliged to state a dissenting special opinion in writing.

5. A Judge who disagrees with the opinion of the majority regarding the reasoning part of a Judicial Act may state a concurring special opinion in writing.

6. Such Judge shall sign and seal the special opinion, which shall be annexed to the Criminal Case File. During the publication of the Judicial Act in a Court session, an announcement shall be made about the existence of a special opinion, but the special opinion shall not be published. The special opinion shall be provided to the Participants in the Proceedings.

7. A correction in a Judicial Act shall be agreed with and approved by the signatures of the all the Judges before publishing the Judicial Act.

Article 365. Grounds for Quashing or Changing an Appealed Judicial Act

1. As a result of judicial review, the appealed Judicial Act shall be quashed or changed if:

- 1) An international treaty of the Republic of Armenia has not been applied correctly;
- 2) The substantive law has not been applied correctly;
- 3) There is a material violation of the criminal procedure law; or

4) There is any factual or legal circumstance that renders the appealed Judicial Act unlawful.

2. Incorrect application of an international treaty is the application of an international treaty of the Republic of Armenia, which was not applicable, or the non-application of a treaty that was applicable, or the wrong construal of a treaty.

3. Incorrect application of the substantive law is the application of any Article, Paragraph, or sub-paragraph of the criminal law or other substantive law, which was not applicable, or the non-application of an Article, Paragraph, or sub-paragraph that was applicable, or the wrong construal of the substantive law.

4. A material violation of the criminal procedure law is any violation of a principle of the Criminal Proceedings during the Criminal Proceedings.

5. A factual or legal circumstance that renders the appealed Judicial Act unlawful is a fact or legal act (which has entered into legal force) or expressed legal position, which was unknown to the Court and the Parties when the Judicial Act was rendered or which emerged after publishing the Judicial Act.

6. This Article does not apply to extraordinary review.

Article 366. Judicial Act Rendered as a Result of Judicial Review

1. A Judicial Act rendered as a result of judicial review shall state:

1) The number of the Criminal Case File;

2) The year, month, and date of rendering the Judicial Act;

3) The composition of the Court;

4) The name (names) of the person (persons) or entity (entities) that lodged the appeal;

5) The name of the lower-instance Court (Courts) that conducted the proceedings, the year and date of rendering the Conclusive Judicial Act (Acts), and the composition of the Court (compositions of the Courts);

6) The names, patronymics, and surnames of the Participants in the Proceedings;

7) A brief statement of the essence of the appealed Judicial Act;

8) The grounds and arguments of the appeal, and the demand stated in the appeal;

9) The history of the proceedings;

10) The justifications of the Court that conducted the review;

11) The laws that the Court followed when rendering the decision; and

12) The conclusion reached as a result of examining the appeal.

2. In the Judicial Act rendered as a result of the judicial review, the Court shall provide a founded legal assessment of all the arguments presented in the judicial appeal for review, with the exception of arguments the groundlessness of which cannot cast any doubt in the mind of an impartial observer.

3. The conclusive part of a Judicial Act rendered as a result of judicial review shall be published in the Court session. The whole Judicial Act shall be sent to the Participants in the Proceedings within the time period set by law.

CHAPTER 47. APPELLATE REVIEW

Article 367. Time Period and Procedure of Lodging a Petition for Appeal

1. A Petition for appeal shall be lodged within a one-month period of the date of publishing the Judicial Act subject to appellate review.

2. In case of missing the time period for lodging a Petition for appeal, private persons that have the right to lodge an appeal may annex to the Petition for appeal a motion on recovering the missed time period. The missed time period shall be recovered, if the lodging of a proper Petition for appeal was impossible in practice in view of reasons stated in the motion.

3. The execution of a Judicial Act may be suspended by a decision to recover the missed time period.

4. A Petition for appeal shall be lodged to an appellate Court and its copy to the first instance Court that rendered the Judicial Act, for the purpose of honoring the requirements of this Code regarding notification and sending the case file to the appellate Court.

Article 368. Response to a Petition for Appeal

1. The Court that rendered the appealed Judicial Act shall notify the Participants in the Proceedings, whose interests are concerned, about the lodging of a Petition for appeal. A copy of the Petition for appeal shall be sent to such persons, clarifying the possibility of submitting a response to the Petition for appeal and the time period for such submission, which may not be more than 15 days after receipt of the Petition for appeal.

2. Responses received concerning the Petition for appeal shall be annexed to the Criminal Case File.

3. After the passage of time period for lodging a Petition for appeal and for submitting a response to such Petition, the Court that rendered the Judicial Act shall send the Criminal Case File, together with the received responses to the Petition for appeal, to the appellate Court, about which notice shall be given to the Participants in the Proceedings.

Article 369. Motion to Examine Evidence during the Appeal

Participants in the Proceedings shall have the right, with a view to confirming the arguments provided for their Petition for appeal or the arguments provided in relation to a Petition for appeal by the other Party, to present new Evidence to the Court or to file a motion for inviting a specific person to Court to give Testimony, to order an expert examination, and to demand Evidence that is not accessible for them, if they substantiate that they objectively had no possibility of or need for presenting such Evidence, inviting such person, or requesting an expert examination to be ordered at the first instance Court, or if they substantiate that such a motion had been filed and had been groundlessly rejected by the first instance Court.

Article 370. Decisions Rendered by the Court in Relation to a Petition for Appeal

1. The appellate Court shall decide to return the Petition for appeal, giving a time period of five to 10 days, if the appeal does not correspond to the requirements prescribed by Paragraph 1 of Article 361 of this Code.

2. The appellate Court shall decide to leave the Petition for appeal without examination if:

1) The Petition for appeal has not been aligned with the requirements prescribed by Paragraph 1 of Article 361 of this Code within the time period set by the appellate Court;

2) The Petition for appeal was lodged by a person who does not have the right to lodge an appeal;

3) The Petition for appeal is overdue and, in case a motion for recovering the missed time period has been filed, it has been rejected; or

4) The Petition for appeal was lodged against a Judicial Act that is not subject to appellate review.

3. If the grounds stated in Paragraphs 1 and 2 of this Article are absent, the appellate Court shall decide to admit the Petition for appeal into proceedings.

4. A copy of a decision to return the Petition for appeal or to leave it without examination shall be sent to the person who lodged it. A copy of the decision to admit the Petition for appeal into proceedings and to schedule a Court session shall be sent to all the Participants in the Proceedings.

Article 371. Consequences of Withdrawing a Petition for Appeal

If the time period for lodging a Petition for appeal has passed, and no other Petitions for appeal have been lodged against the Judicial Act in question, and the Petition for appeal is withdrawn, the Court shall render a decision on discontinuing the appellate proceedings. The first instance Court's Judicial Act shall enter into legal force from the moment such decision is rendered.

Article 372. Scope of Appellate Review

1. Appellate review shall be conducted within the scope of the ground stated in the Petition for appeal and the facts confirming it. The appellate Court may surpass the scope of the Petition for appeal to the benefit of the Accused if:

- 1) A circumstance precluding the criminal prosecution is discovered;
- 2) It is discovered that wrong legal assessment of the act of the Accused was made;
- 3) The circumstances envisaged by Paragraph 1 of Article 381 of this Code are discovered;
- 4) It is discovered that a sentence not prescribed by law for the crime attributed to the Accused has been imposed on the Accused, or the sentence imposed on him has been wrongly calculated; or
- 5) The ground of quashing or changing the appealed Judicial Act obviously concerns also an Accused who has not appealed the Judicial Act.

2. The appellate Court shall review the Judicial Act using the Evidence existing in the Criminal Case File, as well as new Evidence in the cases envisaged by this Code.

3. During the examination of an appeal in the appellate Court, the factual circumstances confirmed in the first instance Court shall be accepted as a basis, with the exception of the following cases:

1) If the Petition for appeal challenges any factual circumstance and the appellate Court reaches the conclusion that the first instance Court obviously made a mistake when reaching an inference regarding such factual circumstance;

2) If the Petition for appeal challenges any factual circumstance and the appellate Court reaches the conclusion, based on the new Evidence, that the inference of the first instance Court regarding such factual circumstance was founded; or

3) If the appellate Court reaches the conclusion that there is a factual circumstance precluding criminal prosecution.

4. In the cases envisaged by Paragraph 3 of this Article, the appellate Court may find that new factual circumstances have been confirmed or that factual circumstances confirmed by the lower-instance Court have not been confirmed, if such a conclusion can be reached on the basis of the Evidence examined by the first instance Court or based on new Evidence in accordance with this Code.

5. If the first instance Court failed, despite its obligation to do so, to reach a conclusion in its Judicial Act regarding any factual circumstance based on the examined Evidence, then the appellate Court may find that new factual circumstances have been confirmed, if such a conclusion can be reached on the basis of the Evidence examined by the first instance Court or based on new Evidence.

6. When rendering a Judicial Act, the appellate Court may, for the purpose of substantiating its Judicial Act, rely on Evidence examined in the first instance Court, but not examined in a session of the appellate Court.

Article 373. Scheduling a Court Session

1. After its receipt in the appellate Court, the Criminal Case File shall be delivered to the presiding Judge of the judicial bench, who shall present the Criminal Case File to the other Judges in the bench to study.

2. Having studied the received materials of the Criminal Case File, the Court shall render a decision to schedule a Court examination. Such decision shall:

1) Set the place, date, and time of the Court session;

2) In case examination of Evidence is necessary, set the scope of the Evidence to be examined directly at the Court session, and the list of persons invited to the Court for giving Testimony;

3) Solve the issue of the restraint measure; and

4) Decide whether the session will be open to the public or held in camera.

3. The first Court session in the appellate Court shall be scheduled within 20 days of receiving the Criminal Case File, but not later than within two months of lodging the first Petition for appeal.

4. The decision to schedule a Court Examination shall be immediately sent to the Participants in the Proceedings.

Article 374. The Court Examination

1. The participation of the person who lodged the Petition for appeal in the Court examination in the appellate Court shall be mandatory. The Court may decide to deem the participation of other Participants in the Proceedings, including the Prosecutor, as mandatory.

2. If the person who lodged the Petition for appeal or a person authorized by him fail, after being given due notice, to attend the Court session twice without any valid excuse, the Petition for appeal shall be left without examination.

3. After the report, the Court shall hear the Explanations of the person who lodged the Petition for appeal. If the Court deems necessary, it shall also hear the Explanations of the other Party, which has not appealed the Judicial Act.

4. If examination of Evidence is necessary, it shall be performed within the scope defined by the Court in the decision to schedule a Court Examination. By motion of a Party, the Court may expand such scope and examine other Evidence, as well, including new Evidence.

5. After completing the examination of Evidence or, if the Evidence has not been examined, then after hearing the Explanation of the Parties, the Court shall ask the Parties whether they are filing motion to supplement the scope of Evidence subject to examination and, after solving such motions, proceed to the closing speeches.

6. The Court shall determine the sequence order of the closing speeches. Participation in the closing speeches shall not be mandatory.

7. After hearing the closing speeches, the Court shall move away to render a decision.

Article 375. Rendering a Conclusive Judicial Act

1. As a result of examining the Petition for appeal, the appellate Court shall render a Conclusive Judicial Act, which shall confirm the first instance Court's Judicial Act or supplement it or fully or partially replace it.

2. The appellate Court shall render a Conclusive Judicial Act under the general rules defined by this Code, subject to the requirements prescribed in this Article.

3. The appellate Court shall solve the following issues in the sequence order in which they are presented here:

1) Whether the Petition for appeal (or each of the Petitions for appeal) is founded;

2) Whether any of the circumstances envisaged by Paragraph 1 of Article 372 of this Code has been discovered;

3) Whether the first instance Court's response to any of the issues envisaged by Article 354 of this Code need to be changed;

4) Whether the appealed Judicial Act shall be quashed or changed;

5) If the appealed Judicial Act is to be quashed, then whether it shall be quashed fully or partially;

6) If the appealed Judicial Act is to be quashed fully or partially, then whether a new Judicial Act is to be rendered, or whether the proceedings are to be transferred to the respective first instance Court; and

7) If the proceedings are to be transferred to the respective first instance Court, then what shall be the scope of the new proceedings to be conducted.

Article 376. Judicial Acts Rendered as a Result of Appellate Review

1. As a result of the appellate review, the appellate Court may:

1) Leave the Judicial Act unchanged: when the appellate Court rejects the Petition for appeal, but finds that a Judicial Act that is substantively correct was inadequately or wrongly substantiated, then it shall substantiate the Judicial Act that has been left unchanged;

2) Fully or partially quash the Judicial Act: for the quashed part, a new Judicial Act shall be rendered, or the proceedings shall be transferred to the respective first instance Court for a new examination, specifying the scope of such new examination; or

3) Change the lower-instance Court's Judicial Act, if the factual circumstances allow rendering such an act, and it is in the interest of the effectiveness of justice.

2. The appellate Court may quash an acquitting judgment, or change or quash a convicting judgment in a way that deteriorates the condition of the Accused,

only when the Prosecutor or the Victim or the Victim's representative has lodged a Petition appeal specifying such ground and such demand.

3. An acquitting judgment or a decision to terminate the criminal prosecution on the basis of acquittal may not be quashed on the basis of a material violation of the criminal procedure law, unless the innocence of the acquitted person casts doubt.

4. When quashing a Judicial Act, the appellate Court may transfer the proceedings to a first instance Court only when the powers and possibilities conferred upon it this Code are not sufficient for ensuring the fairness of a new Judicial Act to be rendered by it.

Article 377. Grounds of Quashing or Changing a Judicial Act Appealed under an Appellate Review Procedure

A Judicial Act appealed under an appellate review procedure shall be quashed or changed if:

1) The conclusions stated in such Judicial Act regarding the factual circumstances of the case do not correspond to the Evidence examined in the appellate Court;

2) An international treaty of the Republic of Armenia has not been correctly applied;

3) The substantive law has not been correctly applied;

4) There is a material violation of the criminal procedure law;

5) The sentence imposed by the judgment does not correspond to the gravity of the committed crime or the personal character of the Accused; or

6) There is any factual or legal circumstance that, if taken into consideration, would render the appealed Judicial Act unlawful.

Article 378. Conclusions Stated in a Judgment or Decision concerning Factual Circumstances not Corresponding to the Evidence

Having determined that the first instance Court's conclusions regarding the factual circumstances, as stated in the Court's Judicial Act, do not correspond to the Evidence examined in the first instance court or in the appellate Court, the appellate Court shall fully or partially quash the Judicial Act and render a new Judicial Act, or transfer the proceedings to a first instance Court for a new Court examination, or change the Judicial Act.

Article 379. Incorrect Application of an International Treaty

Having determined that an international treaty has not been correctly applied, the appellate Court shall fully or partially quash the Judicial Act and render a new Judicial Act, or transfer the proceedings to a first instance Court for a new Court examination, or change the Judicial Act.

Article 380. Incorrect Application of the Substantive Law

1. Having determined that the legal assessment related to the conviction of the Accused is incorrect because his act contains no *corpus delicti*, or there is a circumstance that precludes the criminality of the act (the Accused has been convicted instead of acquittal or termination of the criminal prosecution), the appellate Court shall quash the Judicial Act and render a new Judicial Act.

2. Having determined that the legal assessment of the act of the Accused is incorrect because it is too harsh, the appellate Court shall change the Judicial Act and give the crime a legal assessment that is more favorable for the Accused.

3. Having determined that the legal assessment of the act of the Accused is incorrect because it is too mild, the appellate Court shall quash the Judicial Act and transfer the proceedings to a first instance Court for a new examination. If the proceedings had been transferred to a first instance Court in the past based on the same ground, then the appellate Court shall have the power to quash the Judicial Act and render a new Judicial Act.

4. Having determined that the legal assessment of the acquittal of the Accused or of the termination of his criminal prosecution is incorrect because his act contains *corpus delicti* or there is no circumstance that precludes the criminality of the act (the Accused has been acquitted or his criminal prosecution has been terminated, instead of convicted him), the appellate Court shall quash the Judicial Act and transfer the proceedings to a first instance Court for a new examination. If the proceedings had been transferred to a first instance Court in the past based on the same ground, then the appellate Court shall have the power to quash the Judicial Act and render a new Judicial Act.

5. Having determined that the type or the severity of the sentence imposed on the Accused for the crime attributed to him is not prescribed by law for such crime, or the sentence imposed on him was wrongly calculated, the appellate Court shall change the Judicial Act.

6. Having determined that any other provision of the substantive law has been incorrectly applied, the appellate Court shall fully or partially quash the Judicial Act and render a new Judicial Act, or transfer the proceedings to a first instance Court for a new Court examination, or change the Judicial Act.

Article 381. Material Violation of the Criminal Procedure Law

1. A Judicial Act shall be unconditionally quashed if:

1) Despite the existence of grounds for discontinuing the Criminal Proceedings or grounds for terminating criminal prosecution, the first instance Court failed to discontinue the proceedings or to terminate the prosecution;

2) The convicting judgment was rendered on the basis of confession Testimony not substantiated by the sufficient totality of Evidence;

3) The judgment was rendered by a Court bench that was not lawful;

4) The Court Proceedings were unlawfully conducted in the absence of the Accused;

5) The Court Proceedings were conducted in the absence of a Defender, although his participation was mandatory in accordance with the law;

6) The right of the Accused to use his mother tongue and the services of a translator was violated in Court;

7) The Accused, who conducted his own defense, was not given the possibility of making a closing speech;

8) The Court session Protocol is missing from the Criminal Case File;

9) The reasoning part is missing from the appealed Judicial Act;

10) The jurisdiction rules were violated;

11) The Court gave the factual circumstances (act) attributed to the Accused a differing legal assessment, without having the issue discussed by the Parties under a due process of law; or

12) In proceedings transferred by a higher-instance Court, the Actions of Proceedings necessary within the scope defined by such Court have not been carried out.

2. Having determined that the first instance Court committed the violation envisaged by sub-paragraph 1 of Paragraph 1 of this Article, the appellate Court shall quash the judgment and discontinue the proceedings and/or terminate the criminal prosecution.

3. Having determined that the first instance Court committed a violation envisaged by sub-paragraphs 2 to 12 of Paragraph 1 of this Article, the appellate Court shall quash the judgment and render a new Judicial Act or transfer the proceedings to a first instance Court for a new examination.

4. Having determined that the first instance Court has committed any other material violation of the criminal procedure law, the appellate Court shall change the first instance Court's Judicial Act or quash it and transfer the proceedings to a first instance Court for a new examination.

Article 382. Unfairness of the Imposed Sentence

Having determined that, when imposing the sentence or solving the issue of serving the sentence, the first instance Court failed to take into consideration any circumstance aggravating or mitigating the sentence or characterizing the dangerousness of the crime or the personal character of the Accused, resulting in the imposition of an unfair sentence, i.e. a sentence that is obviously too harsh or obviously too mild, the appellate Court shall change the first instance Court's Judicial Act—mitigating or aggravating the sentence, or otherwise solving the issue of serving the sentence, guided by the general principles of sentencing.

Article 383. Existence of New Factual or Legal Circumstances

Having determined that, after rendering the appealed Judicial Act, such a factual or legal circumstance emerged or was discovered, which, if taken into consideration, would render the appealed Judicial Act unlawful, the appellate Court shall fully or partially quash the Judicial Act and render a new Judicial Act, or transfer the proceedings to a first instance Court for a new examination, or change the Judicial Act.

Article 384. Proceedings Following the Publication of a Conclusive Judicial Act Rendered through Appellate Review

1. A Judicial Act rendered as a result of appellate review shall enter into legal force within a one-month period of publication.

2. Not later than within five days of publication, the Judicial Act rendered as a result of appellate review shall be sent to the Participants in the Proceedings.

3. In case of quashing the appealed Judicial Act in the appellate review and transferring the proceedings to a first instance Court, the proceedings shall be

conducted under the general procedure, within the scope defined by the appellate Court.

CHAPTER 48. CASSATION

Article 385. Time Period and Procedure of Lodging a Cassation Appeal

1. A cassation appeal may be lodged within a one-month period of the moment of publishing the Judicial Act subject to the cassation appeal.

2. A cassation appeal shall be lodged with the cassation Court, and its copy with the appellate Court.

3. Immediately after receiving a copy of the cassation appeal, the appellate Court shall send the case file to the cassation Court.

Article 386. Conditions of Admitting a Cassation Appeal into Proceedings

1. The cassation Court shall admit a cassation appeal into proceedings, if it reaches the conclusion that:

1) The appellate Court has committed a *prima-facie* judicial mistake, or there is a *prima-facie* factual or legal circumstance that renders the appealed Judicial Act unlawful, and, at the same time, the cassation Court's decision regarding an issue raised in the cassation appeal can have material significance for the consistent application of the law; or

2) A serious factual or legal circumstance has emerged *prima facie* or a serious judicial mistake that has affected the outcome of the proceedings has been committed *prima facie*.

2. For the purposes of this Article, the cassation Court's decision regarding an issue raised in the cassation appeal can have material significance for the consistent application of the law if:

1) On the same issue, there are at least two contradictory Judicial Acts of lower-instance Courts;

2) On the same issue, there are contradictory Judicial Acts of a lower-instance Court and of the European Court of Human Rights;

3) The appealed Judicial Act contradicts a legal position expressed in a decision of the Constitutional Court of the Republic of Armenia;

4) The appealed Judicial Act contradicts decisions rendered by the cassation Court in the past;

5) A lower-instance Court relied on decisions of the European Court of Human Rights, not applying the law of the Republic of Armenia; or

6) The cassation Court finds that an issue of development of law exists in connection with the appealed Judicial Act.

3. For the purposes of this Article, the following factual or legal circumstances shall be deemed serious:

1) A general amnesty act that has entered into force is applicable in relation to the Accused;

2) The statutory period of limitation for holding the Accused criminally liable has passed;

3) The Accused has died; or

4) Any other factual circumstance in respect of which the cassation Court finds it necessary to review the Judicial Act.

4. For the purposes of this Article, the following judicial mistakes shall be deemed serious:

1) Despite the existence of a circumstance precluding criminal prosecution, the criminal prosecution was not terminated or an acquitting judgment was not rendered;

2) Wrong legal assessment was given to the act of the Accused;

3) The type or the severity of the sentence imposed on the Accused for the crime attributed to him is not prescribed by law for such crime, or the sentence imposed on him was wrongly calculated; or

4) A violation of the criminal procedure law envisaged by Paragraph 1 of Article 381 of this Code has been committed.

Article 387. Cassation Appeal

1. In addition to what is envisaged by Paragraph 1 of Article 361 of this Code, a cassation appeal shall also contain the conditions for admitting an appeal into proceedings, as envisaged by Article 386 of this Code, and the arguments substantiating them.

2. Documents confirming that a copy of the cassation appeal has been sent to the Court that rendered the Judicial Act and to the Participants in the Proceedings shall be annexed to the cassation appeal.

Article 388. Preliminary Proceedings for a Cassation Appeal

1. A cassation appeal may be returned, providing five to 10 days of time, if the appeal does not correspond to the requirements prescribed by Paragraph 1 of Article 361 and Article 387 of this Code.

2. A cassation appeal shall be left without examination if:

1) Within the time period set by the cassation Court, the cassation appeal has not been aligned with the requirements prescribed by Paragraph 1 of Article 361 and Article 387 of this Code;

2) The cassation appeal was lodged by a person who does not have the right to lodge an appeal;

3) The appeal is overdue and, in case a motion for recovering the missed time period has been filed, it has been rejected; or

4) The cassation appeal was lodged against a Judicial Act that is not subject to cassation appeal.

3. Admission of the cassation appeal into proceedings shall be rejected, if the cassation Court unanimously reaches the conclusion that the substantiation for admitting into proceedings is insufficient.

4. The cassation appeal shall be admitted into proceedings, if it corresponds to the requirements prescribed by Paragraph 1 of Article 361 and Article 387 of this Code and, at the same time, the Court does not unanimously reach the conclusion that the substantiation of the conditions for admitting into proceedings are insufficient.

5. In the cases envisaged by Paragraphs 1 to 4 of this Article, the cassation Court shall render a decision within a one-month period of receiving the Criminal Case File.

6. A copy of the decision on returning the cassation appeal or leaving it without examination shall be sent to the person who lodged the appeal. A copy of the decision to admit the appeal into proceedings or to reject to admit it into proceedings shall be sent to all the Participants in the Proceedings.

Article 389. Response to the Cassation Appeal

1. Having received a copy of the cassation appeal, a Participant in the Proceedings shall have the right to send his response to the cassation Court within a one-month period.

2. The response shall be signed by the Participant in the Proceedings, which submits such response, or by a person authorized by him.

3. Prior to sending the response to the cassation Court, a copy of it shall be sent also to the other Participants in the Proceedings, annexing to the response a document confirming such fact. If the document confirming that a copy of the response has not been sent to the other Participants in the Proceedings is not annexed, the response shall be deemed not submitted.

Article 390. Scope of Cassation

1. Cassation shall be conducted within the scope of the ground stated in the cassation appeal and the facts stated to confirm it.

2. The cassation Court may surpass the scope of the cassation appeal to the benefit of the Accused if:

1) A circumstance precluding the criminal prosecution is discovered;
2) It is discovered that wrong legal assessment of the act of the Accused was made;

3) The circumstances envisaged by Paragraph 1 of Article 381 of this Code are discovered;

4) It is discovered that the type or severity of the sentence imposed on the Accused for the crime attributed to him is not prescribed by law, or the sentence imposed on him has been wrongly calculated; or

5) The ground of quashing or changing the appealed Judicial Act obviously concerns also an Accused who has not appealed the Judicial Act.

Article 391. Preparation of the Court Examination

1. The cassation Court shall conduct the proceedings in a reasonable time period.

2. The person who lodged the appeal and the Participants in the Proceedings shall be notified of the place and time of the Court session.

Article 392. Rendering a Judicial Act

1. As a result of examining the appeal, the cassation Court shall a decision that will fully or partially replace or supplement the Judicial Acts of lower-instance Courts.

2. The Cassation Court shall render a decision under the general rules prescribed by this Code, taking into account the requirements prescribed by this Article.

3. The Cassation Court shall solve the following issues in the sequence order presented below:

1) Whether the cassation appeal (or each of the cassation appeals) is founded;

2) Whether any of the circumstances envisaged by Paragraph 2 of Article 390 of this Code has been discovered;

3) Whether the appealed Judicial Act shall be quashed or changed;

4) If the appealed Judicial Act is to be quashed, then whether it shall be quashed fully or partially; and

5) If the appealed Judicial Act is to be quashed fully or partially, then whether the proceedings are to be transferred to an appellate Court or to a respective first instance Court, and what shall be the scope of the new proceedings to be conducted.

Article 393. Conclusive Judicial Acts of the Cassation Court

1. As a result of the review proceedings, the cassation Court may:

1) Leave the Judicial Act unchanged: when the cassation Court rejects the cassation appeal, but finds that a Judicial Act that is substantively correct was inadequately or wrongly substantiated, then it shall substantiate the Judicial Act that has been left unchanged;

2) Fully or partially quash the Judicial Act: for the quashed part, the case shall be sent to the respective lower-instance Court for a new examination, specifying the scope of such new examination, while the non-quashed part of the Judicial Act shall enter into legal force;

3) Change the respective lower-instance Court's Judicial Act, if the factual circumstances confirmed by such lower-instance Court allow rendering such an act, and it is in the interest of the effectiveness of justice;

4) Fully or partially quash the Judicial Act and discontinue the case proceedings or terminate the criminal prosecution;

5) If the appellate Court has quashed or changed the Judicial Act, then the cassation Court may fully or partially quash the appellate Court's Judicial Act and give legal force to the first instance Court's Judicial Act. In this case, the cassation Court shall additionally reason the first instance Court's Judicial Act, if it is incomplete or is partially wrongly reasoned.

2. The cassation Court may not change the part of the lower-instance Court's Judicial Act, which concerns the sentence.

3. The cassation Court may quash an acquitting judgment, or change or quash a convicting judgment in a way that deteriorates the condition of the Accused, only when the Prosecutor or the Victim or the Victim's representative has lodged an appeal specifying such ground and such demand.

4. An acquitting judgment or a decision to terminate the criminal prosecution on the basis of acquittal may not be quashed on the basis of a material violation of the criminal procedure law, unless the innocence of the acquitted person casts doubt.

Article 394. Grounds of Quashing or Changing a Judicial Act Appealed under a Cassation Procedure

1. A Judicial Act appealed under a cassation procedure shall be quashed or changed if:

- 1) An international treaty of the Republic of Armenia has not been correctly applied;
- 2) The substantive law has not been correctly applied;
- 3) There is a material violation of the criminal procedure law;
- 4) There is any factual or legal circumstance that, if taken into consideration, would render the appealed Judicial Act unlawful.

2. Having determined that an international treaty has not been correctly applied, the cassation Court shall fully or partially quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a new Court examination, or give legal force to the first instance Court's Judicial Act, or change the Judicial Act.

3. Having determined that the legal assessment of the act of the Accused is incorrect, or the type or the severity of the sentence imposed on the Accused for the crime attributed to him is not prescribed by law for such crime, or the sentence imposed on him was wrongly calculated, the cassation Court shall quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a new examination, or give legal force to the first instance Court's Judicial Act.

4. Having determined that the substantive law has been otherwise incorrectly applied, the cassation Court shall fully or partially quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a

new examination, or give legal force to the first instance Court's Judicial Act, or change the Judicial Act.

5. Having determined that the violation envisaged by sub-paragraph 1 of Paragraph 1 of Article 381 of this Code has been committed, the cassation Court shall quash the appellate Court's Judicial Act and discontinue the proceedings and/or terminate the criminal prosecution.

6. Having determined that a violation envisaged by sub-paragraphs 2 to Paragraph 1 of Article 381 of this Code has been committed, the cassation Court shall quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a new examination.

7. Having determined that any other material violation of the criminal procedure law has been committed, the cassation Court shall fully or partially quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a new examination, or give legal force to the first instance Court's Judicial Act, or change the Judicial Act.

8. Having determined that there is a factual or legal circumstance, including a circumstance related to the development of the law, which, if taken into consideration, would render the appealed Judicial Act unlawful, the cassation Court shall fully or partially quash the lower-instance Court's Judicial Act and transfer the proceedings to the respective lower-instance Court for a new examination, or give legal force to the first instance Court's Judicial Act, or change the Judicial Act.

Article 395. Proceedings Following the Publication of a Conclusive Cassation Decision

1. The cassation Court's decision shall enter into force when published.

2. Within a reasonable time period after the date of rendering the decision, it shall be sent to the person who lodged the appeal and to the Participants in the Proceedings.

3. In case of cassation quashing the appealed Judicial Act and transfer of the proceedings to a lower-instance Court, the proceedings shall be conducted under the general procedure, within the scope defined by the cassation Court.

Article 396. Scope of Judicial Acts Subject to Special Review in the Appellate Court; Time Period and Procedure of Lodging Appeals

1. The following Judicial Acts of first instance Courts shall be subject to special review in the appellate Court:

1) A Judicial Act on terminating the criminal prosecution without discontinuing the proceedings;

2) A Judicial Act on granting or rejecting a Petition on applying a restraint measure within the framework of the Pre-Trial Proceedings or prolonging the term of a restraint measure applied earlier;

3) A Judicial Act on granting or rejecting a Petition on abolishing detention or applying an alternative restraint measure instead of detention within the framework of the Pre-Trial Proceedings;

4) A Judicial Act on granting or rejecting a Petition to perform a Proving Action;

5) A Judicial Act on granting or rejecting a Petition to confirm the lawfulness of a decision on seizing property;

6) A Judicial Act on granting or rejecting a Petition to abolish the seizure of property;

7) A Judicial Act on granting or rejecting a Petition challenging a pre-trial action;

8) A Judicial Act on imposing a judicial fine;

9) A Judicial Act on removing from the proceedings;

10) A Judicial Act on coercively bringing before the Court;

11) A Judicial Act on granting or rejecting a Petition on abolishing or changing a compulsory medical measure; and

12) Other Judicial Acts, in the cases envisaged by this Code.

2. A special appeal for review in the appellate Court shall be lodged with the appellate Court within a 15-day period of the date of receiving the respective Judicial Act. A copy of the appeal shall be sent to the Court that rendered the Judicial Act and the relevant Participants in the Proceedings.

3. Documents confirming that a copy of the appeal has been sent to the Court that rendered the Judicial Act and to the Participants in the Proceedings shall be annexed to the appeal.

Article 397. Decisions Rendered by the Court in Relation to a Special Appeal for Review in the Appellate Court

1. A special appeal for review shall be left without examination if:
 - 1) The appeal does not correspond to the requirements prescribed by Paragraph 1 of Article 361 and Paragraph 3 of Article 396 of this Code;
 - 2) The appeal was lodged by a person who does not have the right to lodge it;
 - 3) The appeal is overdue and, in case a Petition for recovering the missed time period has been filed, it has been rejected; or
 - 4) The appeal was lodged against a Judicial Act that is not subject to special review in the appellate Court.
2. In the absence of the grounds specified in Paragraph 1 of this Article, the appeal shall be admitted into proceedings, and a Court session shall be scheduled, setting the place, date, and time of the Court session.
3. The appellate Court shall render a decision in relation to a special appeal for review within a three-day period of receiving the materials of the proceedings. A copy of a decision to leave the appeal without examination shall be sent to the person who lodged the appeal. A copy of a decision to admit the appeal into proceedings and to schedule a Court session shall be sent to all the Participants in the Proceedings, as well as the first instance Court that rendered the appealed Judicial Act.

Article 398. Scope and Time Periods of Special Review in the Appellate Court

1. Special review in the appellate Court shall be performed within the scope and of the grounds and arguments stated in the appeal.
2. Special review proceedings for the judicial acts envisaged by subparagraphs 1-4 and 9 of Paragraph 1 of Article 396 of this Code in the appellate Court shall be conducted and completed within a 10-day period of admitting the appeal into proceedings, or, in case of special review proceedings of other Judicial Acts, within a one-month period of admitting the appeal into proceedings.

Article 399. Judicial Acts Rendered as a Result of Special Review in the Appellate Court and the Proceedings Continuing Their Publication

1. As a result of special review in the appellate Court, the appellate Court may:

- 1) Leave the Judicial Act unchanged;
- 2) Fully or partially quash the Judicial Act: a new Judicial Act may be rendered in respect of the quashed part; and
- 3) Change the Judicial Act of a lower-instance Court, if the factual circumstances allow rendering such an act.

2. A Judicial Act rendered as a result of special review in the appellate Court shall enter into legal force when published and, not later than within three days of publishing, shall be sent to the Participants in the Proceedings and the respective first instance Court.

3. If the special review in the appellate Court is conducted under the conditions of proceedings conducted in a first instance Court, then the appellate Court's Conclusive Judicial Act shall, in case of quashing the first instance Court's Judicial Act as a result of review, be published in the forthcoming session of the first instance Court.

Article 400. Scope of Judicial Acts Subject to Special Review in the Cassation Court, Time Period and Procedure of Lodging an Appeal for Special Review

1. Judicial Acts rendered as a result of special review in the appellate Court, and the following Judicial Acts of the appellate Court shall be subject to special review in the cassation Court:

- 1) A Judicial Act on terminating the criminal prosecution without discontinuing the proceedings;
- 2) A Judicial Act on imposing a judicial fine;
- 3) A Judicial Act on removing from the proceedings; and
- 4) A Judicial Act on coercively bringing before the Court.

2. A special appeal for review in the cassation Court shall be lodged with the cassation Court within a one-month period of the date of receiving the respective Judicial Act. A copy of the appeal shall be sent to the Court that rendered the Judicial Act and to all the Participants in the Proceedings.

Article 401. Conditions for Admitting a Special Appeal for Review into the Cassation Court for Proceedings

The cassation Court shall admit an appeal into proceedings if it reaches the conclusion that the appellate Court has committed a *prima-facie* judicial mistake, or there is a *prima-facie* factual or legal circumstance that renders the appealed Judicial

Act unlawful, and, at the same time, the cassation Court's decision regarding an issue raised in the appeal can have material significance for the consistent application of the law.

Article 402. Special Appeal for Review in the Cassation Court

1. In addition to the circumstances envisaged by Paragraph 1 of Article 361 of this Code, a special appeal for review in the cassation Court shall also contain the conditions for admitting an appeal into proceedings and the arguments substantiating them, as envisaged by Article 401 of this Code.

2. Documents confirming that a copy of the appeal has been sent to the Court that rendered the Judicial Act and to the Participants in the Proceedings shall be annexed to the appeal.

Article 403. Preliminary Proceedings for a Special Appeal for Review in the Cassation Court

1. A cassation appeal shall be left without examination if:

1) The appeal does not correspond to the requirements prescribed by Paragraph 1 of Article 361 and Article 401 of this Code;

2) The appeal was lodged by a person who does not have the right to lodge it;

3) The appeal is overdue and, in case a Petition for recovering the missed time period has been filed, it has been rejected;

4) The appeal was lodged against a Judicial Act that is not subject to appeal through special review in the cassation Court.

2. Admission of a cassation appeal into proceedings shall be rejected, if the cassation Court unanimously reaches the conclusion that the substantiation of the conditions for admitting into proceedings is insufficient.

3. The cassation appeal shall be admitted into proceedings, if it corresponds to the requirements prescribed by Paragraph 1 of Article 361 and Article 402 of this Code and, at the same time, the cassation Court does not unanimously reach the conclusion that the substantiation of the conditions for admitting into proceedings are insufficient.

4. In the cases envisaged by Paragraphs 1 to 3 of this Article, the cassation Court shall render a decision within a one-month period of receiving the materials.

5. A copy of the decision on leaving the appeal without examination shall be sent to the person who lodged the appeal. A copy of the decision to admit the appeal into proceedings or to reject to admit it into proceedings shall be sent to all the Participants in the Proceedings.

Article 404. Response to a Special Appeal for Review in the Cassation Court

Having received a copy of the special appeal for review in the cassation Court, a Participant in the Proceedings shall have the right to send his response to the cassation Court within a one-month period. Together with his response sent to the cassation Court, the Participant in the Proceedings shall send a copy of the response to the other Participants in the Proceedings. The response shall be signed by the Participant in the Proceedings, which submits such response, or by a person authorized by him.

Article 405. Scope of Special Review in the Cassation Court; the Court Hearing

1. Special review in the cassation Court shall be conducted within the scope of the grounds and arguments stated in the cassation appeal.

2. The Court hearing in respect of special review in the cassation Court shall be conducted in a reasonable period.

3. The person who lodged the appeal and the relevant Participants in the Proceedings shall be notified of the place and time of the Court session.

Article 406. Judicial Acts Rendered as a Result of Special Review in the Cassation Court and the Proceedings Following its Publication

1. As a result of special review in the Cassation Court, the cassation Court may:

1) Leave the Judicial Act unchanged; or
2) Fully or partially quash the Judicial Act: a new Judicial Act may be rendered in respect of the quashed part.

2. A Judicial Act rendered as a result of special review in the cassation Court shall enter into legal force when published and, within a reasonable period, shall be sent to the Participants in the Proceedings and the respective lower-instance Court.

3. If the special review in the cassation Court is conducted under the conditions of proceedings conducted in the lower-instance Court, then the cassation

Court's Conclusive Judicial Act shall, in case of quashing the lower-instance Court's Judicial Act as a result of review, be published in the forthcoming session of such Court.

CHAPTER 50. EXTRAORDINARY REVIEW

Article 407. Extraordinary Review Proceedings and Scope of Judicial Acts Subject to Extraordinary Review

1. The following are the extraordinary review proceedings:
 - 1) Proceedings due to new circumstances; and
 - 2) Proceedings based on a fundamental violation.
2. The following shall be subject to extraordinary review: a judgment that has entered into legal force, a Court decision on discontinuing the proceedings and/or terminating the criminal prosecution, and a Judicial Act (which has entered into legal force) rendered in the framework of challenging pre-trial actions, which confirms the lawfulness of terminating the criminal prosecution or the unlawfulness of renewing the criminal prosecution.

Article 408. Persons Eligible to Lodge an Appeal for Extraordinary Review

1. The following persons shall have the right to lodge an appeal for extraordinary review:
 - 1) A person who was a Private Participant in the Proceedings in question, to whose legitimate interests the alleged new circumstance or the alleged fundamental violation is related;
 - 2) A person who was a Private Participant in the Proceedings in question, who, at the date of rendering the Constitutional Court's decision on the issue of constitutionality of a provision of the law, had the possibility of exercising such right in accordance with the requirements (time periods) of the Republic of Armenia Law on the Constitutional Court or was deprived of the possibility of having his case examined in the Constitutional Court by virtue of Paragraphs 3 or 5 of Article 32 of such Law;
 - 3) A person who was a Private Participant in the Proceedings in question, who, at the time of rendering the respective Judicial Act by an international Court in which the Republic of Armenia participates, had the right of applying to the respective international Court in accordance with the requirements of an international treaty;

4) A person who was a Private Participant in the Proceedings in question, to whose legitimate interests the law decriminalizing the act is related; and

5) The Prosecutor General of the Republic of Armenia and his deputies.

2. Instead of a person specified in sub-paragraphs 1 to 4 of Paragraph 1 of this Article, an appeal for extraordinary review may be lodged by a person authorized by him, who shall file the Petition in Court together with a document confirming his authority.

Article 409. Grounds of Lodging an Appeal for Extraordinary Review

1. An appeal due to new circumstances may be lodged on the basis of the following grounds:

1) A Judicial Act that has entered into legal force has confirmed that the Testimony of a witness, Victim, or the Accused was a lie, the translation performed by a translator was obviously wrong, the conclusion of an expert was obviously false, or the Physical Evidence, the Protocols of Proving Actions and other Actions of Proceedings, and off-proceedings documents have been falsified, and resulted in the rendering of an unlawful Judicial Act;

2) A Judicial Act that has entered into legal force has confirmed the criminal acts of a Judge, which he committed while examining the case in question;

3) A Court's Judicial Act that has entered into legal force has confirmed such criminal acts of a Public Participant in the Proceedings, which resulted in rendering an unlawful judgment of the Court or an unlawful decision of the Court on discontinuing the proceedings or terminating the criminal prosecution;

4) A law decriminalizing the act has entered into force, provided that such law provides the possibility of review due to new circumstances;

5) The Constitutional Court of the Republic of Armenia has found that the provision of the law applied by the Court in the proceedings in question contradicts the Constitution and is invalid, or that it conforms to the Constitution, but, in the conclusive part of the decision, exploring upon its constitutional-legal substance, the Constitutional Court found that such provision was applied under a different interpretation;

6) An international Court in which the Republic of Armenia participates has rendered a judgment or decision, which has entered into legal force, substantiating that the right of the person under an international treaty of the Republic of Armenia has been violated; or

7) Other new circumstances that remained unknown to the Court when rendering the Judicial Act have emerged, which per se or together with circumstances found earlier prove that the Convicted person is innocent or that the crime committed by him is less or more grave than the one for which he was convicted, or prove the innocence of the Acquitted person or a person in respect of whom the criminal prosecution was terminated, or confirm that the discontinuation of the proceedings was unlawful.

2. An appeal based on a fundamental violation may be lodged on the basis of the following grounds:

1) Despite the existence of an obvious circumstance precluding the criminal prosecution, a convicting judgment was rendered and has entered into legal force;

2) A person has been convicted for an act that was given an obviously wrong legal assessment;

3) A convicting judgment that has entered into legal force was rendered on the basis of nothing but the confession Testimony given by the Accused in question;

4) The Court that rendered a Judicial Act that has entered into legal force conducted the proceedings with an obviously unlawful bench;

5) In the Court that rendered a Judicial Act that has entered into legal force, the proceedings were conducted in the absence of the Accused in an obviously unlawful manner;

6) In the Court that rendered a Judicial Act that has entered into legal force, the proceedings were conducted in the absence of a Defender or a translator in an obviously unlawful manner, and such fact obviously affected the outcome of the proceedings;

7) The Criminal Case File does not contain the Court session Protocol of the Court that rendered the Judicial Act that has entered into legal force; or

8) The Judicial Act that has entered into legal force is missing the reasoning part.

Article 410. Time Periods for Lodging an Appeal Due to New Circumstances or a Fundamental Violation

1. An appeal due to new circumstances or a fundamental violation may be lodged within four months of the time when the person lodging the appeal found out or could find out about the emergence or discovery of such circumstances.

2. In the case envisaged by sub-paragraph 6 of Paragraph 1 of Article 409 of this Code, the calculation of the four-month period shall begin on the day of delivering the judgment or decision (which has entered into legal force) of an international Court in which the Republic of Armenia participates to the person that applied to such Court in accordance with the procedure envisaged by the regulations of such Court.

3. The review of an acquitting judgment or a decision to discontinue the proceedings or a decision to terminate the criminal prosecution due to new circumstances shall be permitted during the statutory period of limitation for holding criminally liable.

4. A Judicial Act may be appealed on the basis of a fundamental violation, with a demand concerning deterioration of the situation of the Acquitted (or Convicted), within a six-month period of its entry into force.

5. The extraordinary review of a convicting judgment, demanding to establish the Convicted person's innocence or the commission by him of a less grave crime, shall not be barred by any statutory period of limitation.

6. The death of the Convicted person shall not prohibit the performance of an extraordinary review for the purpose of reinstating the rights of the Convicted person or other persons.

Article 411. Initiation of Preliminary Proceedings Due to New Circumstances

1. Statements and reports concerning the new circumstances envisaged by sub-paragraph 7 of Paragraph 1 of Article 409 of this Code shall be sent to the Prosecutor.

2. In case of the *prima-facie* existence of a circumstance envisaged by sub-paragraph 7 of Paragraph 1 of Article 409 of this Code, the Prosecutor shall render a decision on initiating preliminary proceedings in relation to new circumstances, and shall give an Instruction to the Preliminary Investigation body to perform an investigation in respect of such circumstances.

3. If the Prosecutor who received the report finds no *prima-facie* grounds for initiating preliminary proceedings in relation to new circumstances, he shall render a decision rejecting the initiation of preliminary proceedings. A copy of such decision shall, within a three-day period, be sent to the person who filed the report. He may appeal such decision to a higher-ranking Prosecutor.

Article 412. Actions of the Prosecutor after Completing the Preliminary Proceedings Due to New Circumstances

1. After completing the preliminary proceedings due to new circumstances, and finding that the grounds for review of the Judicial Act are present, the Prosecutor shall prepare a conclusion based on the results of the inquiry and send it to the Prosecutor General of the Republic of Armenia or his deputy.

2. The Prosecutor General of the Republic of Armenia or his deputy shall, in case of considering that the grounds for reviewing the case are present, lodge an appeal due to new circumstances to the competent Court, annexing the conclusion and other necessary materials.

3. If no grounds for reviewing the Judicial Act are present, the Prosecutor shall render a decision on discontinuing the preliminary proceedings. A copy of such decision shall, within a three-day period, be sent to the person who filed the report.

Article 413. Appeal for Extraordinary Review

1. Copies of the appeal for extraordinary review and copies of the annexed materials shall be duly sent to the persons that were Private Participant in the Proceedings in question. If the appeal was lodged by a person specified in subparagraphs 1-4 of Paragraph 1 of Article 408 or a person authorized by him, then copies of the appeal and the annexed materials shall be sent also to the Prosecutor General of the Republic of Armenia or his deputy.

2. Documents confirming that copies of the appeal and the annexed materials have been sent to the addressees envisaged by this Code shall be attached to the appeal for extraordinary review.

Article 414. Initiation of Extraordinary Review Proceedings

1. A Judicial Act shall be reviewed due to new circumstances or a fundamental violation on the basis of a decision to initiate extraordinary review proceedings. Such decision shall specify the Court session place, date, and time.

2. The initiation of extraordinary review proceedings shall be rejected by a decision if any of the following grounds is present:

- 1) The appeal is overdue and, in case a Petition for recovering the missed time period has been filed, it has been rejected;
- 2) The new circumstance or fundamental violation is *prima facie* absent;
- 3) No Evidence confirming the new circumstance has not filed; or

- 4) The appeal was lodged by an improper person.
3. The competent Court shall render the decision on initiating review proceedings or rejecting initiation thereof within a one-month period of receiving the appeal.

**Article 415. Judicial Acts Rendered as a Result of Extraordinary Review
and Proceedings Following Their Publication**

1. As a result of the extraordinary review, the competent Court shall fully or partially quash the appealed Judicial Act and transfer the proceedings to the respective lower-instance Court or, discontinue the proceedings and terminate the criminal prosecution, or change the appealed Judicial Act.

2. The Court performing extraordinary review has the power not to quash and not to change the conclusive part of the appealed Judicial Act only if it substantiates, citing compelling arguments, that the circumstances envisaged by Article 409 of this Code essentially could not affect the outcome of the proceedings.

3. A Judicial Act rendered as a result of extraordinary review shall enter into legal force when published. A Judicial Act of the appellate Court may be reviewed in the cassation Court under the special review procedure prescribed by this Code.

4. A Judicial Act rendered as a result of extraordinary review shall, within a reasonable time period, be sent to the person who lodged the appeal and to the Participants in the Proceedings.

5. In case of quashing the appealed Judicial Act under an extraordinary review procedure and transferring the proceedings to a lower-instance Court, the proceedings shall be conducted under the general procedure, within the scope defined by the Court that performed the extraordinary review.

PART FOUR: SPECIFIC SEPARATE PROCEEDINGS

SECTION 12. PECULIARITIES OF PROCEEDINGS CONDUCTED IN RESPECT OF SPECIFIC PERSONS

CHAPTER 51. PROCEEDINGS CONCERNING A CRIME ATTRIBUTED TO A MINOR

Article 416. General Conditions of Proceedings Concerning a Crime Attributed to a Minor

1. The provisions of this Chapter shall apply in proceedings concerning persons that have not reached the age of 18 at the time of arrest or at the time of presenting the Accusation.

2. Proceedings concerning a crime attributed to a minor shall be conducted under the general procedure prescribed by this Code, taking into consideration the rules envisaged by this Chapter.

3. The Body Conducting the Criminal Proceedings shall be obliged to take all the necessary measures for securing proper conditions of rearing, residence, education, or employment for a minor, as well as minimizing his exposure to unlawful influence.

4. The procedural compulsion measures and other means of influence, which are applied in relation to a minor, shall be proportionate to the factual circumstances and gravity of the crime attributed to him, as well as his personal character and the social and psychological condition of the person.

Article 417. Circumstances Subject to Proving in Proceedings Related to a Crime Attributed to a Minor

1. In proceedings related to a crime attributed to a minor, the following shall be found, in addition to the circumstances subject to Proving under Article 102 of this Code:

- 1) The age of the minor (birth day, month, and year);
- 2) The social and family conditions, and conditions of education and rearing of the minor, the level of his psychological development, and other aspects of his personal character;
- 3) The influence of older persons on the minor; and

4) The reasons for committing the alleged crime and the conditions conducive of it.

2. If there is information about mental underdevelopment, which is not related to mental disorders, it shall be determined whether or not the minor could fully understand the factual nature and public dangerousness of his actions (inaction) and to control them.

Article 418. Speed and Separation of Proceedings Related to a Crime Attributed to a Minor

1. Any proceedings related to a crime attributed to a minor shall be inherently examined swiftly and without undue delays.

2. The time periods of criminal prosecution of a minor may not be prolonged during the Pre-Trial Proceedings.

3. The proceedings related to a minor accused of committing the alleged crime with an adult shall be separated in accordance with the procedure envisaged by Article 10 of this Code. If the separation of proceedings is impossible in view of protecting the interest of justice, then the rules of this Chapter shall apply to the minors that are accused together with adults.

4. The materials of proceedings related to a crime attributed to a minor shall not, unless there is a special need, be accessible to all the Participants in the Proceedings or be published at any time, including during the investigation of the crime attributed to an adult.

Article 419. Participation of a Defender in Proceedings Related to a Crime Attributed to a Minor

1. The participation of a Defender in proceedings related to a crime attributed to a minor shall be mandatory from the moment of arresting such person and presenting the Accusation to him.

2. The Body Conducting the Criminal Proceedings shall not accept the Accused person's waiver of the Defender, unless it is due to the desire to have a different Defender. In this case, or in case the Lawful Representative of the Accused terminates the powers of the Defender, the Body Conducting the Criminal Proceedings shall, in accordance with the procedure envisaged by this Code, immediately take measures to ensure the participation of a new Defender in the proceedings.

**Article 420. Participation of a Lawful Representative in Proceedings
Related to a Crime Attributed to a Minor**

1. In proceedings related to a crime attributed to a minor, the participation of a Lawful Representative shall be mandatory.

2. The Body Conducting the Criminal Proceedings shall ensure the participation of a Lawful Representative in proceedings related to a crime attributed to a minor from the moment of arresting such minor or presenting the Accusation to him. The Body Conducting the Criminal Proceedings shall clarify to the Lawful Representative his rights and obligations prescribed by this Code.

3. In case of dismissal of the Lawful Representative from participation in the proceedings based on any ground envisaged by Articles 69 or 72 of this Code, or removing him from the proceedings based on any ground envisaged by Article 148 of this Code, the Body Conducting the Criminal Proceedings shall immediately engage another Lawful Representative of such minor for participation in the proceedings.

Article 421. Arrest or Detention of a Minor

1. Any decision to restrict the freedom of a minor shall be rendered after a rigorous consideration of all the circumstances of the proceedings, with a view to minimizing such restriction to the extent possible.

2. A Lawful Representative of the minor shall be immediately notified of his arrest or detention or the prolongation of his detention term.

3. If detention, house arrest, or administrative supervision needs to be applied in respect of a minor arrest on the basis of reasonable suspicion that has arisen directly about having committed a crime, he shall be brought before the Court within 48 hours of the moment of arrest. If the arrested minor is not detained by Court decision within 12 hours of bringing him before the Court, then he shall be immediately released.

4. When solving the issue of applying detention in respect of an Accused who is a minor, the possibility of his placement under educational supervision shall be considered in every case in the procedure prescribed by Article 129 of this Code.

5. Detention may be applied in respect of a minor accused of committing a non-grave or medium-gravity crime only if he has violated the conditions of an alternative restraint measure applied in respect of him. In any event, detention may be applied as a restraint measure in respect of an Accused who is a minor only as a measure of last resort and for the shortest time period.

6. In any event, the duration of detention or house arrest applied in respect of a minor during the Pre-Trial Proceedings may not exceed one month. The total duration of detention applied in respect of a minor during the Pre-Trial Proceedings may not exceed:

- 1) Two months—in case of being accused of a non-grave or medium-gravity crime; or
- 2) Six months—in case of being accused of a grave or particularly grave crime.

7. In exceptional cases, detention applied in respect of a minor accused of a particularly grave crime may be prolonged by a maximum of another two months.

8. The Body Conducting the Criminal Proceedings shall discuss and immediately solve every legitimate Petition on setting a minor free.

Article 422. Questioning of an Accused Who is a Minor

1. The questioning of an Accused who is a minor shall be performed with the participation of a Defender and a psychologist. His Lawful Representative, too, shall have the right to be present during the questioning of the Accused who is a minor.

2. Before starting the questioning of an Accused who has not reached the age of 16, the Body Conducting the Criminal Proceedings shall explain his right to remain silent, clarifying that the exercise of such right may not be construed against him, and inform that his Testimony may be used as Evidence. If the Accused who has not reached the age of 16 expresses a wish to give Testimony, then the Body Conducting the Criminal Proceedings shall inform him about the obligation to give truthful Testimony, but shall not warn him about the liability prescribed by law for giving false Testimony.

Article 423. Termination of Criminal Prosecution in Proceedings Related to a Crime Attributed to a Minor

1. If, during the Pre-Trial Proceedings, the investigation of a non-grave or medium-gravity crime shows that an Accused who is a minor who has committed a crime for the first time can be corrected without holding him criminally liable, then the Investigator shall render a decision, with the Prosecutor's written consent, about terminating criminal prosecution and shall initiate a Petition on applying educational coercive measures in respect of the Accused who is a minor, which shall be delivered to the Court by the Prosecutor together with the materials of the proceedings.

2. Termination of the criminal prosecution on the basis of a ground envisaged by Paragraph 1 of this Article shall not be permitted, if the Accused or his Lawful Representative objects to it.

3. The Court shall discuss the Petition and the materials of the proceedings under the procedure prescribed by Article 294 of this Code.

4. In case of granting the Petition, the Court shall render a decision on applying the educational coercive measures prescribed by Article 91 of the Criminal Code of the Republic of Armenia in respect of a minor. The Court may assign the supervision of compliance with the requirements of an education coercive measure to a specialized competent body.

5. In case of rejecting the Petition, the Court shall abolish the decision on terminating criminal prosecution and return the materials of the proceedings to the Prosecutor for resuming the criminal prosecution.

Article 424. Peculiarities of Court Proceedings Related to a Crime Attributed to a Minor

1. In proceedings related to a crime attributed to a minor, the Court sessions shall be held in camera.

2. A Court session that is open to the public may be conducted only by Petition of the Accused who is a minor or of his Defender or Lawful Representative, unless it *per se* would harm the legitimate interests of the minor. In any event, when conducting a Court session that is open to the public, the Court shall be obliged to take measures for the protection of the legitimate interests of an Accused who is a minor.

3. By Petition of a Party or at its initiative, the Court may render a decision on removing the Accused who is a minor from the courtroom, if the circumstances to be examined may negatively affect him.

4. After the Accused returns to the courtroom, the presiding judge shall give him information, of the need scope and form, of the substance of actions performed in his absence, and give the Accused who is a minor the possibility of posing questions to persons questioned in his absence.

Article 425. Applying Educational Coercive Measures

1. If the proceedings sent to Court with an accusatory conclusion or an accusatory act have revealed that an Accused who is a minor who has committed a non-grave or medium-gravity crime for the first time can be corrected without holding

him criminally liable, then the Court shall render a decision on terminating the criminal prosecution of the minor and applying the educational coercive measures prescribed by Article 91 of the Criminal Code of the Republic of Armenia.

2. To ensure compliance with the requirements of the educational coercive measure, the decision shall be sent to the Parties and to the competent body supervising the behavior of the minor.

Article 426. Issues to Be Solved when Rendering a Judgment in Relation to a Minor

1. When rendering a judgment in relation to an Accused who is a minor, the Court shall, in addition to the issues envisaged by Article 354 of this Code, solve the issue of exempting the Accused from the sentence, imposing a non-imprisonment sentence in respect of him, or conditionally not applying the sentence in cases envisaged by Article 93 of the Criminal Code of the Republic of Armenia, and shall discuss the reasons of committing the crime, the conditions conducive of it, and the measures aimed at eliminating such conditions.

2. In the cases envisaged by Paragraph 1 of this Article, the Court shall state the specialized competent body that is assigned to supervise the behavior of the minor.

Article 427. Placement in an Educational-Rearing or Medical-Rearing Institution

If the proceedings related to a non-grave or medium-gravity crime reveal that the minor who committed such crime can be corrected without imposing a sentence, the Court shall have the power, when rendering a judgment, to exempt the Accused from the sentence on the basis of Article 93 of the Criminal Code of the Republic of Armenia, and to place him in an educational-rearing or medical-educational institution.

CHAPTER 52. PROCEEDINGS TO APPLY COMPULSORY MEDICAL MEASURES

Article 428. Scope of Medical Compulsion Proceedings

1. Proceedings to apply compulsory medical measures (hereinafter, "Medical Compulsion Proceedings") shall be conducted:

1) In respect of persons that committed the alleged crime in an inculpable state and remain dangerous for society; or

2) In respect of persons that, after committing the crime, developed a mental disorder that renders sentence imposition or execution impossible.

2. Medical Compulsion Proceedings shall be conducted under the general procedure prescribed by this Code, taking into account the rules prescribed by this Chapter.

Article 429. Circumstances Subject to Proving in Medical Compulsion Proceedings

The following shall be subject to Proving during Medical Compulsion Proceedings:

- 1) The incident and its circumstances;
- 2) The commission of the act by the person in question;
- 3) The culpability of the person when committing the crime and his guilt;
- 4) The person having a mental illness or mental disorder, as well as its nature, gravity, and time of developing it;
- 5) The behavior of the person before and after committing the act; and
- 6) The nature and scale of damage inflicted.

Article 430. Medical Compulsion Pre-Trial Proceedings

1. When grounds emerge for the application of Medical Compulsion Proceedings during the Preliminary Investigation conducted under the general procedure, the Investigator shall render a decision on converting the Criminal Proceedings to Medical Compulsion Proceedings, a copy of which shall be immediately sent to the supervising Prosecutor. If more than one Accused persons are engaged in the proceedings in question, the proceedings concerning the person specified in Paragraph 1 of Article 428 of this Code shall be separated before rendering a decision on converting the proceedings.

2. Medical Compulsion Pre-Trial Proceedings shall be conducted in the form of a Preliminary Investigation.

3. Within 48 hours of starting the Medical Compulsion Proceedings, the Investigator shall be obliged to deliver copies of the decisions that served as a basis for starting such proceedings to the person in respect of whom the Medical Compulsion Proceedings are being conducted, as well as to such person's Defender or

representative, annexing to such documents a memorandum clarifying the rights and obligations of the addressee.

4. If the grounds prescribed by this Code for conducting Medical Compulsion Proceedings cease, the Investigator shall render a decision on converting the Medical Compulsion Proceedings to Criminal Proceedings. A copy of such decision shall be immediately sent to the supervising Prosecutor and the Private Participants in the Proceedings.

Article 431. Rights of the Person in Respect of Whom Medical Compulsion Proceedings are Conducted

1. A person in respect of whom Medical Compulsion Proceedings are conducted shall enjoy all the rights of an Accused, insofar as their exercise is possible in view of such person's health condition.

2. If the person in respect of whom Medical Compulsion Proceedings are conducted is completely unable, in view of his health condition, to participate in Actions of Proceedings, then the Investigator shall prepare a Protocol about it, a copy of which shall be sent to the supervising Prosecutor, as well as such person's Defender and representative.

Article 432. Defender and Representative in Medical Compulsion Proceedings

1. From the moment of starting Medical Compulsion Proceedings, the participation of a Defender shall be mandatory.

2. By decision of the Investigator or the Court, the person's guardian or Close Relative may participate in the Medical Compulsion Proceedings as a representative, or, if engaging such a person is impossible, then a representative of the medical institution where the person is.

Article 433. Security Measures in Medical Compulsion Proceedings

1. Restraint measures may not be applied in Medical Compulsion Proceedings. Restraint measures applied prior to the conversion of the proceedings shall be terminated during the Medical Compulsion Proceedings.

2. The security measures envisaged by Article 138 of this Code may be applied in Medical Compulsion Proceedings.

Article 434. Completion of Medical Compulsion Pre-Trial Proceedings

1. If the Investigator deems the collected Evidence sufficient, he shall, in compliance with the relevant requirements concerning an accusatory conclusion, prepare a conclusive act or render a decision on discontinuing the proceedings, and immediately deliver it to the supervising Prosecutor together with the materials of the proceedings.

2. The supervising Prosecutor, having received the materials of the proceedings, shall render one of the following decisions:

1) A decision to approve the conclusive act and to deliver the materials of the proceedings to the Court;

2) A decision to return the materials of the proceedings to the investigative body for resuming the Preliminary Investigation; or

3) A decision to approve the Investigator's decision on discontinuing the proceedings.

Article 435. Preliminary Court Hearings in Medical Compulsion Proceedings

1. During the preliminary Court hearings, the Court shall discuss the following, in the sequence order defined by this Article:

1) The issue of Self-Recusal, Recusal, and dismissal from participation in the proceedings;

2) The issue of jurisdiction over the proceedings;

3) The issue of discontinuing the proceedings;

4) The issue of applying a security measure;

5) In case a property claim has been initiated, the issue of recognizing a Property Respondent;

6) The issue of the scope of Evidence subject to examination during the principal hearings;

7) In case of a Petition—the issue of permissibility of Evidence; and

8) Other relevant issues.

Article 436. Principal Hearings in Medical Compulsion Proceedings

1. In his opening speech, the Prosecutor shall present the factual description of the incident and justify the need to apply Medical Compulsion Proceedings. It will be followed by the opening speech of the Defender. Then, the Evidence presented by the

Parties shall be examined. The Parties shall make closing speeches, and the Court shall move away to a separate room for rendering the verdict.

2. When rendering the verdict, the Court shall solve the following issues in the sequence order presented below:

1) Whether the factual circumstances (act) attributed to the person have been proven;

2) Whether the public dangerousness of such act and its criminal unlawfulness have been proven;

3) Whether the commission of such act by such person has been proven;

4) If the Medical Compulsion Proceedings are conducted on the basis of the ground envisaged by sub-paragraph 1 of Paragraph 1 of Article 428 of this Code, then whether the inculpability of the person at the time of committing the act has been proven; and

5) If the Medical Compulsion Proceedings are conducted on the basis of the ground envisaged by sub-paragraph 2 of Paragraph 1 of Article 428 of this Code, then whether the guilt of the person in committing the act attributed to him has been proven.

3. In case of giving a negative answer to any of the questions stated in sub-paragraphs 1, 2, 3 and 5 of Paragraph 2 of this Article, the Court shall render an acquitting verdict.

4. In case of giving a negative answer to the question stated in sub-paragraph 4 of Paragraph 2 of this Article, the Court shall also solve the issue stated in sub-paragraph 5 of Paragraph 2 of this Article.

5. In case of affirmatively answering the question stated in sub-paragraph 4 of Paragraph 2 of this Article, the Court shall render a verdict confirming the conclusive act.

6. In case of affirmatively answering all the questions stated in sub-paragraphs 1, 2, 3, and 5 of Paragraph 2 of this Article, the Court shall render a convicting verdict, which shall also define the Article, paragraph, or sub-paragraph of the Criminal Code, which is applicable to the proven act.

Article 437. Additional Court Hearings in Medical Compulsion Proceedings

1. In case of rendering an acquitting verdict, additional court hearings shall be conducted under the general procedure prescribed by this Code.

2. During additional Court hearings that follow a convicting verdict or a verdict confirming a conclusive act, the Court shall discuss the following:

- 1) Issues concerning circumstances mitigating or aggravating the liability of the Convicted Accused, and circumstances characterizing him as a person;
- 2) Issues related to the application of the sentence or a compulsory medical measure;
- 3) The issue of solving the property claim;
- 4) The issue of compensating damage inflicted by the crime;
- 5) Issues related to the seizure of property;
- 6) Issues of keeping and disposing the Evidence;
- 7) Issues related to the application of a restraint measure or security measure;
- 8) Issues related to the costs of proceedings; and
- 9) Other relevant issues.

Article 438. Conclusive Judicial Act in Medical Compulsion Proceedings

1. Based on the acquitting or convicting verdict, the Court shall render an acquitting or convicting judgment, respectively. Based on a verdict to confirm the accusatory act, the Court shall render a medical compulsion judgment.

2. In the acquitting judgment or the medical compulsion judgment, the Court shall also solve the following issues:

- 1) Whether the person has such a mental disorder, which renders impossible the serving of the sentence by him,
- 2) Whether a compulsory medical measure needs to be applied in relation to the person;
- 3) What measure of medical compulsion shall be applied in respect of the person.

Article 439. Abolishing or Changing a Compulsory Medical Measure

1. If the need for further application of a compulsory medical measure ceases after the person's health condition has improved or after the person has fully recovered, then the Court shall, based on a conclusion of the medical commission, examine the issue of abolishing or changing the compulsory medical measure by Petition of the Prosecutor, a Close Relative of the person, or another interested person.

2. The issue specified in Paragraph 1 of this Article shall be examined by the Court of the place where the compulsory medical measure is applied, with the

mandatory participation of the Prosecutor and the person by whose Petition the issue of abolishing or changing the compulsory medical measure is being solved.

3. If the Court rejects the Petition to apply or change a compulsory medical measure, it may be lodged again six months after rendering the decision to reject the Petition.

CHAPTER 53. PECULIARITIES OF PROCEEDINGS RELATED TO PERSONS ENJOYING IMMUNITIES AND PRIVILEGES DEFINED BY INTERNATIONAL TREATIES

Article 440. Jurisdiction of the Republic of Armenia over Persons Enjoying Diplomatic Immunity

Persons enjoying diplomatic immunity may be under the jurisdiction of the Republic of Armenia when the respective foreign state or international organization has given its clear-cut consent to it.

Article 441. Persons Enjoying Diplomatic Immunity

The following persons shall enjoy diplomatic immunity:

- 1) Heads of diplomatic missions of foreign states, diplomatic staff of such missions, and their co-residing family members, unless they are citizens of the Republic of Armenia;
- 2) Based on reciprocity, administrative and support staff of diplomatic missions and their co-residing family members, unless they are citizens of the Republic of Armenia or permanently resident in the Republic of Armenia;
- 3) Based on reciprocity, service staff of diplomatic missions, which are not citizens of the Republic of Armenia and are not permanently resident in the Republic of Armenia;
- 4) Diplomatic couriers;
- 5) Heads and other officials of consular missions;
- 6) Representatives of foreign states, members of parliamentary and governmental delegations, and, based on reciprocity, members of such delegations of foreign states, which have arrived for international negotiations, international summits or conferences or other official Instructions, or are in the Republic of Armenia territory in

transit for such purposes, as well as their family members accompanying them, which are not citizens of the Republic of Armenia;

7) Heads, members, staff, and officials of foreign states' missions in international organizations, which are in the Republic of Armenia territory by virtue of international treaties or customary international law; and

8) Heads of diplomatic missions in a third state, and diplomatic staff members of diplomatic missions of foreign states, which are in the Republic of Armenia territory in transit, as well as their family members accompanying them or travelling separately for reuniting with them or returning to their country.

Article 442. Personal Immunity

1. The persons specified in Article 441 of this Code may not be arrested or detained, unless it is necessary for the purpose of executing a judgment that has entered into legal force in relation to them.

2. The body that arrested or detained a person specified in Article 441 of this Code shall be obliged to give immediate notice thereof to the Foreign Affairs Ministry of the respective state by fax, telegraph, or other means of communication.

Article 443. Immunity from Criminal Prosecution

1. The persons specified in Article 441 of this Code shall enjoy immunity from criminal prosecution in the Republic of Armenia. The issue of engaging such persons as an Accused shall be solved by the diplomatic channel.

2. Service staff of a diplomatic mission, which are not citizens of the Republic of Armenia and do not permanently reside in the Republic of Armenia, shall enjoy immunity from criminal prosecution in the Republic of Armenia only during the performance of their service duties in the field of their activities.

Article 444. Privilege of not Giving Testimony and not Presenting Materials

1. The persons specified in Article 441 of this Code shall have the right not to give Testimony as a witness of Victim or, in case of consenting to give Testimony, shall not be obliged to appear before the Body Conducting the Criminal Proceedings for doing so.

2. In case of obtaining the consent mentioned in Paragraph 1 of this Article, the written notice delivered to the respective persons shall not contain any mention of

applying coercive measures in case of failing to appear to the questioning for giving Testimony.

3. Persons enjoying diplomatic immunity shall not be obliged to present correspondence or other documents related to the performance of their service duties to the Body Conducting the Criminal Proceedings.

Article 445. Immunity of Buildings and Documents

1. A building occupied by a diplomatic mission, the residence of the head of a diplomatic mission, the residential buildings of the diplomatic staff members, their property, and vehicles shall be immune. Entry into such buildings and the performance of Proving Actions or other Actions of Proceedings shall be permitted only with the consent of the head of the diplomatic mission or person occupying such position.

2. The limitations envisaged by Paragraph 1 of this Article shall, on the basis of reciprocity, apply to the residential buildings occupied by the administrative and support staff of the diplomatic mission and their co-residing family members, provided that such persons and their family members are not citizens of the Republic of Armenia and are not permanently resident in the Republic of Armenia.

3. A building occupied by a consular institution and the residence of the head of a consular institution shall, based on the principle of reciprocity, be immune. Entry into such buildings and the performance of Proving Actions or other Actions of Proceedings shall be permitted only upon the request or with the consent of the head of the diplomatic mission or consular institution.

4. The archive, documents, and official letters of diplomatic missions and consular institutions shall be immune. Diplomatic mail may not be monitored or seized.

5. In the cases envisaged by Paragraphs 1 to 3 of this Article, Body Conducting the Criminal Proceedings shall receive the consent of heads of diplomatic missions and consular institutions through the Foreign Affairs Ministry of the Republic of Armenia.

6. Search, seizure, and detention in the buildings envisaged by this Article shall be performed in the presence of the supervising Prosecutor and a representative of the Foreign Affairs Ministry of the Republic of Armenia.

*SECTION 13. PECULIARITIES OF CONDUCTING CERTAIN TYPES
OF PROCEEDINGS*

CHAPTER 54. PRIVATE ACCUSATION PROCEEDINGS

Article 446. Initiating the Proceedings

1. Private accusation proceedings may be initiated when a criminal claim is presented to a Court by a person who has sufficient grounds to presume that damage has been inflicted upon him by the acts envisaged by Paragraph 1 of Article 116, Articles 117 and 118. Paragraph 1 of Article 128, Paragraph 1 of Article 158, Article 174, Paragraph 1 of Article 186, Article 197, Paragraph 1 of Article 213, or Paragraph 1 of Article 242 of the Criminal Code of the Republic of Armenia.

2. A criminal claim may be filed only by a person envisaged by Paragraph 1 of this Article or by his Lawful Representative.

3. A criminal claim shall contain:

1) The name, surname, and place of residence of the person envisaged by Paragraph 1 of this Article;

2) The name, surname, and place of residence of the person against whom the criminal claim is filed;

3) The substance of the Accusation;

4) The names, surnames, and places of residence of the persons that are to be called to the Court session; and

5) Materials substantiating the Accusation.

4. Regardless of initiation of a criminal claim, the Prosecutor may initiate Criminal Proceedings in relation to the crimes envisaged by Paragraph 1 of this Article, if the person is unable to defend his legitimate interests by virtue of his helpless state or dependency upon the person who allegedly inflicted the damage. In this case, the Criminal Proceedings shall be conducted under the general procedure prescribed by this Code, and the criminal prosecution shall not be terminated in case of settlement between the Victim and the Accused.

5. A person envisaged by Paragraph 1 of this Article shall file the criminal claim to the first instance Court of the place where the alleged crime was committed.

6. Pre-Trial Proceedings shall not be conducted in case of private Accusation.

Article 447. Actions of the Court before Starting the Criminal Proceedings

1. After receiving the criminal claim, the Judge shall check whether the requirements concerning the criminal claim, as prescribed by Paragraph 3 of Article 446 of this Code, have been met, whether the complaint correctly specifies the Criminal Code Article and paragraph based on which Criminal Proceedings can be started through private Accusation, and whether the statutory period of limitation for holding criminally liable has passed, and shall render one of the following decisions within a five-day period:

- 1) A decision on starting Criminal Proceedings;
- 2) A decision on returning the criminal claim;
- 3) A decision on sending the criminal claim and the annexed materials to the Court that has jurisdiction; or
- 4) A decision on rejecting to start Criminal Proceedings.

2. The criminal claim shall be returned for a time period of at least five days, if there are shortcomings in it that can be corrected.

3. The criminal claim and the annexed materials shall be sent to the Court that has jurisdiction, if it transpires that the place of committing the alleged crime lies outside the judicial territory of the respective Court.

4. Starting Criminal Proceedings shall be rejected if:
 - 1) The person who committed the alleged crime is unknown;
 - 2) The factual circumstances described in the criminal claim are obviously not criminal;
 - 3) Only public criminal prosecution may be performed in respect of the factual circumstances described in the criminal claim; or
 - 4) The shortcomings in the criminal claim have not been eliminated, or the criminal claim has not been re-submitted, during the time period set by the Court.

Article 448. Decision to Start Criminal Proceedings

1. The decision to start Criminal Proceedings shall specify:
 - 1) The Victim's name, surname, and place of residence;
 - 2) The Accused person's name, surname, and place of residence;
 - 3) Factual description of the Accusation;
 - 4) Legal assessment of the alleged crime;
 - 5) The materials presented by the Victim;
 - 6) The date and time of the preliminary hearing; and

7) The right of the Accused to become familiar with the materials annexed to the criminal case.

2. From the moment of rendering the decision to start Criminal Proceedings, the person against whom the criminal claim has been filed shall receive the status of an Accused, and the person who filed the criminal claim shall be recognized as a Victim.

3. Within a two-day period, a copy of the decision shall be sent to the Victim and to the Accused. A copy of the criminal claim shall be sent to the Accused within the same time period.

Article 449. Preliminary Court Hearing of the Private Accusation

1. The preliminary Court hearing shall be conducted under the relevant provisions of Chapter 43 of this Code, subject to the peculiarities prescribed by this Article.

2. Instead of the issue envisaged by Paragraph 6 of Article 317 of this Code, the Court shall discuss the possibility of settlement between the Victim and the Accused. If the Parties settle, then the Court shall, based on the agreement drafted by them, render a decision on approving such agreement, which shall conclude the proceedings. The Court shall not approve an agreement that contradicts the law and shall continue the preliminary Court hearing.

3. If, prior to the start of the principal hearing, the Accused files a criminal claim against the Victim in Court, the two Accusations shall be examined in one set of proceedings. In such case, each of the Victims shall also be an Accused and shall have the rights and obligations of both a Victim and an Accused.

Article 450. Principal Hearing of the Private Accusation

1. The principal hearing of the private Accusation shall be conducted under the relevant provisions of Chapters 44 and 45 of this Code, subject to the peculiarities prescribed by this Article.

2. In the principal hearing of the private Accusation, the Victim shall act as the accuser, and shall bear the obligation of proving the Accusation as presented in the criminal claim.

3. If the Accused has presented his written Explanations and filed a Petition to conduct the principal hearing without his participation, then the Court shall have the power, after hearing the Victim's opinion, to conduct the principal hearing in the absence of the Accused.

4. The principal hearing shall begin with the presentation of the criminal claim by the Victim. Thereafter, the Court shall ask the Accused whether he understands the Accusation and whether he pleads guilty. The Court shall explain to the Parties their right to conclude a settlement agreement before the Court moving away to a separate room for rendering the judgment.

5. In case of settlement, the Court shall, based on the agreement drafted by them, render a decision on approving such agreement, which shall conclude the proceedings. The Court shall not approve an agreement that contradicts the law and shall continue the Court Examination.

6. The Victim shall have the right to drop the Accusation fully or partially before the Court has moved away for rendering the judgment.

7. Additional Court hearings shall not be conducted in private Accusation proceedings.

Article 451. Termination of Criminal Prosecution during the Court Examination

Private criminal prosecution shall be terminated during the Court examination if:

- 1) The Victim and the Accused have settled;
- 2) The Victim has dropped the criminal claim; or
- 3) The Victim or his representative has failed to attend the Court session three times without a valid excuse.

Article 452. Conclusive Judicial Acts

1. A combined judgment shall be rendered in respect of the Private Accusation, without a verdict. A copy of the judgment shall be sent to the Parties and to the prosecution office within a three-day period.

2. The Court's decision to approve the settlement agreement shall be executed under the procedure prescribed by the Republic of Armenia Law on the Compulsory Execution of Judicial Acts.

CHAPTER 55. AGREEMENT PROCEEDINGS

Article 453. Ground of Applying Agreement Proceedings

1. The Court shall apply agreement proceedings during the preliminary Court hearing of a Public Accusation, based on a Petition by an Accused who is accused of a non-grave or medium-gravity crime.

2. Agreement proceedings may not be applied if:

1) The Accused does not have a Defender or filed the Petition without consulting a Defender;

2) At least one of the several Accused persons engaged in the proceedings objects to the application of agreement proceedings;

3) The Public Accuser objects to the application of agreement proceedings;
or

4) It is substantiated on a *prima-facie* basis that the damage inflicted by the crime has not been compensated, and the Victim objects to the application of agreement proceedings.

Article 454. Solving the Petition to Apply Agreement Proceedings

1. The Court shall grant the Petition to apply agreement proceedings, if the conditions envisaged by Paragraph 1 of Article 453 of this Code are present, the circumstances precluding the application of agreement proceedings, as envisaged by Paragraph 2 of Article 453 of this Code, are absent, and the Accused has filed the Petition voluntarily and understands the nature and consequences of his Petition.

2. In case of granting the Petition of the Accused, the Court shall set a time period of at least two weeks for the Parties to negotiate.

3. To reject a Petition to apply agreement proceedings, the Court shall render a separate decision.

Article 455. Negotiations on Agreement

1. After granting the Petition to apply agreement proceedings, the Prosecutor shall start negotiations with the Accused and his Defender for the purpose of reaching agreement.

2. When the damage inflicted by the crime has not been compensated, but the Victim has not objected to the application of agreement proceedings, the Prosecutor shall, with the Victim's agreement, engage him in the negotiations. The Victim shall participate only in the negotiations concerning the nature and amount of damage inflicted by the crime.

3. After reaching agreement on the nature and amount of damage subject to compensation, the Parties shall start negotiations on the type and severity of the sentence to be imposed on the Accused. The agreement may not result in setting a sentence severity that would exceed half of the maximum sentence prescribed for the crime in question.

4. In case of reaching agreement as a result of the negotiations, the Parties shall compile a Protocol on agreement, which shall state:

- 1) The time and place of compiling the Protocol;
- 2) The name, surname, and position held by the Public Accuser;
- 3) The Accused person's name, surname, patronymic, birth day, month, year, and place, residence address, citizenship, education, mother tongue, place of work or education, convictions, and other relevant information;
- 4) The Defender's name and surname;
- 5) The Victim's name and surname, if the Victim participated in the agreement process;
- 6) The restraint measure applied in relation to the Accused and the time period of its application;
- 7) The factual circumstances of the crime, as specified in the accusatory conclusion, and its legal assessment;
- 8) The nature and amount of damage compensated or subject to compensation; and
- 9) The agreed-upon sentence type and severity.

5. If more than one Accused persons participate in the negotiations, a separate agreement shall be concluded with each of them.

6. In case of a combination of crimes, the Protocol shall specifically mention the sentence type and severity agreed for each crime, as well as the final sentence type and severity.

7. The agreement shall be deemed concluded when the Protocol on agreement is signed by the Accused, his Defender, the Public Accuser, and the Victim if the Victim participated in the negotiations.

8. The Public Accuser shall give one copy of the Protocol on agreement to each of the Court, the Accused, his Defender, and the Victim.

9. In case of failing to reach agreement on the issues envisaged by Paragraph 3 of this Article, the preliminary Court hearing shall continue under the general procedure prescribed by this Code.

Article 456. Actions of the Court after Receiving the Protocol on Agreement

1. After receiving the Protocol on agreement, the Court shall render a decision on conducting an additional Court hearing.
2. The Court shall reject the Protocol on agreement and shall continue the preliminary Court hearing under the general procedure if:
 - 1) During the negotiations between the Parties, the Court, having become familiar with the Criminal Case File, reached the conclusion that the act attributed to the Accused was obviously committed by or with the participation of another person (persons) that is (are) not an Accused; or
 - 2) The legal assessment of the act of the Accused obviously does not correspond to the factual circumstances of the Accusation.
3. The Court shall not accept the Protocol on agreement and shall define a time period for preparing a new Protocol and submitting it to the Court, if the agreed-upon sentence type and severity is unlawful. If the Parties fail to present a proper Protocol on agreement during the time period set by the Court, then the Court shall continue the preliminary Court hearings under the general procedure.

Article 457. Additional Court Hearings in Agreement Proceedings

1. Additional Court hearings shall be conducted with the mandatory participation of the Accused, his Defender, the Public Accuser, and, if Victim participates in the negotiations, then also the Victim.
2. Additional Court hearings shall begin with the publication of the Protocol on agreement by the Accuser.
3. After publishing the Protocol on agreement, the Court shall ask the Accused whether he clearly understands the substance of the concluded agreement and agrees to it. Then, the Court shall determine whether the Accused has express his legal will, is conscious of the consequences of the concluded agreement, and insists upon the concluded agreement.
4. The Court shall ask the Defender and Public Accuser whether they insist upon the concluded agreement.
5. The Court shall ask the Victim whether he insists upon the concluded agreement insofar as the amount of damage subject to compensation is concerned.

6. After examining the Protocol on agreement, the Court shall move away to a separate room after announcing the place, date, and time of publishing the judgment.

7. If, at any time before the Court moving away to a separate room, any of the persons specified in this Article waives the concluded agreement, the Court shall render a decision on resuming the preliminary Court hearing.

Article 458. Rendering a Judgment in Agreement Proceedings

1. As a result of the agreement proceedings, the Court shall render a convicting judgment under the procedure envisaged by Articles 353 to 356 of this Code, taking into consideration the peculiarities envisaged by this Article.

2. The convicting judgment shall contain the literal statement of the text of the Protocol on agreement.

3. Through the convicting judgment, the Court shall set the sentence type and severity defined by the Protocol on agreement.

4. If there is a property claim, it shall be left without solution.

5. Costs of proceedings envisaged by Paragraph 1 of Article 168 of this Code shall not be confiscated from the Accused.

6. After publishing the judgment, the Judge shall clarify to the Parties also the limitations prescribed by this Code for appealing the judgment.

Article 459. Scope of Appeal against a Judgment in Agreement Proceedings

A judgment rendered under Article 458 of this Code may be appealed in the procedure prescribed by this Code, but may not be appealed on the basis of the grounds envisaged by Article 378 or Paragraphs 1, 2, or 3 of Article 380, or Article 382 of this Code.

CHAPTER 56. COOPERATION PROCEEDINGS

Article 460. Objective of Cooperation Proceedings; Ground of Application

1. Cooperation proceedings shall be applied with the objective of ensuring the solution of grave and particularly grave crimes and the inevitability of punishment of the persons that commit them.

2. Cooperation proceedings may be initiated only if a person accused of committing a non-grave or medium-gravity crime or aiding a grave or particularly grave crime has filed a written Petition (hereinafter “a Cooperation Petition”) on concluding a pre-trial agreement.

3. A Cooperation Petition shall be related to the crime that concerns the Accusation presented to such person, which is examined in the same or another set of proceedings.

Article 461. Procedure of Filing a Cooperation Petition

1. A Cooperation Petition is addressed to the supervising Prosecutor and shall be signed by the Accused and his Defender.

2. A Cooperation Petition may be presented from the time criminal prosecution of the Accused is initiated to the time of announcing the end of the Preliminary Investigation.

3. A Cooperation Petition shall specify the nature of the cooperation of the Accused and the actions that the Accused undertakes to perform to support the solution of the crime or the inevitability of punishment of the persons that committed it.

4. The Accused or his Defender shall deliver a Cooperation Petition to the supervising Prosecutor through an Investigator. If the Accused has no Defender at the time of filing the Petition, then the Investigator shall take measures to ensure the participation of a Defender in the proceedings and shall give the Accused a possibility of discussing the Petition with the Defender.

5. Within three days of receiving a Petition signed by the Accused and the Defender, the Investigator shall deliver it to the supervising Prosecutor, annexing his written opinion about granting or rejecting it.

6. If more than one Accused persons have expressed a desire to conclude pre-trial agreement on cooperation under the same set of proceedings, each one of them shall file a separate Cooperation Petition.

Article 462. Solving a Cooperation Petition

1. Within three days of receiving a Cooperation Petition and the Investigator’s thereon, the supervising Prosecutor shall render a decision on granting or rejecting the Cooperation Petition.

2. The Cooperation Petition shall be rejected if it does not correspond to the conditions prescribed by Articles 460 and 461 of this Code, or if the supervising Prosecutor considers that such cooperation is not necessary.

Article 463. Procedure of Preparing a Cooperation Agreement

1. If the Cooperation Petition is granted, the supervising Prosecutor shall prepare a cooperation agreement, with the participation of the Investigator, the Accused, and his Defender.

2. The cooperation agreement shall state:

1) The place and time of preparing it;

2) The name, surname, and position of the supervising Prosecutor;

3) The Accused person's name, surname, patronymic, birth day, month, year, and place, residence address, citizenship, education, place of work or education, convictions, and other relevant information;

4) The restraint measure applied in relation to the Accused and its time period;

5) The Defender's name and surname and the ground of his participation in the proceedings;

6) Factual description of the Accusation presented to the Accused and the legal assessment of the act;

7) The nature of the cooperation and the actions that the Accused undertakes to perform in order to achieve the goal of cooperation; and

8) The Republic of Armenia Criminal Code provisions that can be applied if the Accused properly honors his obligations under the agreement.

3. If the damage inflicted upon the Victim by the act attributed to the Accused has not been compensated, then the agreement shall also state the obligation of the Accused to compensate such damage fully.

4. The agreement shall be signed by the supervising Prosecutor, the Accused, and the Defender. One copy of the agreement shall be delivered to each of the Accused and the Defender.

5. If the Petitions of more than one Accused persons on concluding cooperation agreements have been granted, then the supervising Prosecutor shall conclude a separate agreement with each of them.

Article 464. Preliminary Investigation Carried out in Cooperation Proceedings

1. The Preliminary Investigation in cooperation proceedings shall be carried out under the general procedure prescribed by this Code, taking into consideration the rules envisaged by this Chapter.

2. After preparing the cooperation agreement, the proceedings concerning the Accused in question shall be separated. The Cooperation Petition, the Investigator's opinion thereon, the supervising Prosecutor's decision on granting the Petition, and the cooperation agreement must be annexed to the materials of the separated proceedings.

3. During the cooperation proceedings, the supervising Prosecutor may, based on a Petition by the Investigator, suspend the criminal prosecution of the Accused on a ground envisaged by sub-paragraph 4 of Paragraph 2 of Article 196 of this Code, if it is necessary for ensuring the proper performance of the obligations assumed by him under the agreement.

4. If there is a threat to the security of the Accused, his Close Relative, or any other person related to the Accused, the Investigator shall render a decision on keeping the documents envisaged by Paragraph 2 of this Article in a sealed closed envelope and implementing means of special protection envisaged by this Code in relation to the respective person.

5. After completing the Preliminary Investigation, the Investigator shall, in accordance with the procedure envisaged by Article 205 of this Code, deliver the Criminal Case File to the supervising Prosecutor for approving the accusatory conclusion and preparing a Petition on applying a special procedure of Court examination in respect of the Accused.

Article 465. Refusing Cooperation

Prior to the performance of the obligations undertaken by the cooperation agreement, the Accused shall have the right to refuse cooperation based on a written application. In such case, the cooperation shall be terminated by a decision of the supervising Prosecutor, and the proceedings shall be continued under the general procedure envisaged by this Code.

Article 466. Petition to Apply a Special Procedure of Court Examination in Relation to an Accused Who has Concluded a Cooperation Agreement

1. In the procedure and time periods envisaged by Article 207 of this Code, the supervising Prosecutor shall, after reviewing the Criminal Case File received from the Investigator and the Evidence confirming proper performance of the obligations assumed by the Accused under the agreement, confirm the accusatory conclusion and shall have the power to initiate a Court Petition to apply a special procedure of Court examination in relation to the Accused, or render a decision rejecting delivery of the Criminal Case File to Court based on a Petition, if the obligations assumed by the Accused under the agreement have not been fulfilled or have not been properly fulfilled.

2. Such Petition shall specify:

- 1) The nature and scope of the cooperation of the Accused;
- 2) The significance of the cooperation of the Accused for solving the crime and ensuring the inevitability of punishment of the person who committed the crime;
- 3) Evidence confirming that the Accused has properly fulfilled his obligations assumed under the agreement; and
- 4) The means of special protection applied in respect of the Accused, his Close Relative, or another person related to him, and the grounds and objective of their application.

3. A copy of the Petition shall be delivered to the Accused and to his Defender. They shall have the right to present their comments on the Petition to the Court.

4. The decision to reject delivery of the Criminal Case File to Court based on a Petition to apply a special procedure of Court examination in relation to the Accused shall be delivered to the Accused and to the Defender. It may be appealed to a higher-ranking Prosecutor. The Criminal Case File may not be sent to Court before the appeal is solved.

Article 467. Ground and Conditions of Conducting the Court Examination in Cooperation Proceedings under a Special Procedure

1. During the preliminary Court hearing, the Court shall discuss the issue of conducting the Court Examination under a special procedure in respect of the Accused, who concluded a cooperation agreement, if the Prosecutor has initiated such a Petition when delivering the Criminal Case File to the Court.

2. The Court shall grant the Petition to conduct the Court Examination under a special procedure if the Court is convinced that:

1) The pre-trial agreement on cooperation was concluded by the Accused voluntarily, with the participation of a Defender, and in compliance with the other requirements envisaged by this Chapter;

2) Evidence has been presented, which is *prima facie* sufficient to show that the Accused has properly fulfilled his obligations assumed under the agreement;

3) The cooperation of the Accused has not resulted in communicating nothing but information about the participation of the Accused in the commission of the crime; and

4) There is no information obviously indicating that the Accused has not committed the act attributed to him.

3. In the absence of any of the conditions envisaged by Paragraph 2 of this Article, the Court shall render a decision on conducting a Court Examination to continue the preliminary Court hearing under the general procedure.

4. In case of granting the Prosecutor's Petition, the Court shall render a decision on conducting an additional Court hearing.

Article 468. Additional Court Hearing in Cooperation Proceedings

1. An additional Court hearing in cooperation proceedings shall be conducted with the mandatory participation of the Accused, his Defender, the Public Accuser, and the Victim (if the judgment to be rendered may touch upon his interests).

2. At the beginning of the additional Court hearing, the Public Accuser shall present the factual basis of the Accusation and the legal assessment of the act attributed to the Accused, after which he shall confirm the fact that the Accused is cooperating and clarify to the Court how exactly it was manifested.

3. The Accused and the Defender shall have the right to express their comments on the nature of the cooperation of the Accused and other significant circumstances.

4. The additional Court hearing shall examine the Evidence that confirms:

1) The nature and scope of cooperation of the Accused;

2) The proper fulfillment by the Accused of the obligations assumed under the agreement;

3) The role and significance of cooperation with the Accused in ensuring the solution of the crime and the inevitability of punishment for the person who committed it;

4) Circumstances characterizing the Accused as a person, as well as circumstances mitigating and aggravating his liability; and

5) The extent of threat to the security of the Accused, his Close Relative, or another person related to the Accused, resulting from the cooperation.

Article 469. Rendering a Judgment in Cooperation Proceedings

1. As a result of the cooperation proceedings, the Court shall render a convicting judgment under the procedure envisaged by Articles 353-356 of this Code, taking into consideration the peculiarities prescribed by this Article.

2. The judgment shall state:

1) Factual description and legal assessment of the criminal act attributed to the Accused;

2) The Court's conclusions regarding the fulfillment of obligations assumed by the Accused under the pre-trial agreement on cooperation, and the Evidence supporting such conclusions;

3) The Court's conclusions regarding the achievement of the goal of cooperation, as well as the Evidence supporting such conclusions.

3. If the examined Evidence confirms the fulfillment of obligations assumed by the Accused under the agreement and the fact that the goal of the cooperation has been achieved, the Court shall, taking into consideration the provisions of the General Part of the Criminal Code of the Republic of Armenia, render a convicting judgment in respect of the Accused, imposing a sentence that is more lenient than that prescribed by law, or conditionally not applying the sentence imposed.

4. If the circumstances envisaged by Paragraph 2 of this Article are not confirmed, the Court shall render a decision on resuming the preliminary Court hearing.

5. After publishing the judgment, the Judge shall clarify to the Parties also the limitations prescribed by this Code for appealing the judgment.

Article 470. Peculiarities of the Review of Judgments in Cooperation Proceedings

1. A judgment rendered in cooperation proceedings may be appealed under the procedure envisaged by this Code, but may not be appealed on the basis of the grounds envisaged by Article 378 and Paragraphs 1, 2, and 3 of Article 380 of this Code.

2. If, after imposing a sentence in respect of the Accused under the rules of this Chapter, it is discovered that he intentionally communicated lies to the Preliminary Investigation body or concealed any material information, then the judgment shall be subject to review under the procedure envisaged by Chapter 50 of this Code.

PART FIVE: FINAL AND TRANSITIONAL PROVISIONS

SECTION 14. FINAL AND TRANSITIONAL PROVISIONS

CHAPTER 57. FINAL AND TRANSITIONAL PROVISIONS

Article 471. Final Provisions

1. This Code shall enter into force from 1 January 2014, save for the provisions for which another time period of entry into force is prescribed by Article 472.

2. From the moment this Code enters into force, the Republic of Armenia Criminal Procedure Code adopted on 1 July 1998, with all subsequent amendments and additions thereto, shall be repealed, save for the cases prescribed by Article 472 of this Code.

Article 472. Transitional Provisions

1. Reports of crime received by an Inquiry Body prior to the entry into force of this Code, in respect of which a decision has not been rendered on initiating a Criminal Case or rejecting initiation of a Criminal Case File, shall, for the purpose of solving the issue of initiating Criminal Proceedings, be sent to the Investigator through the supervising Prosecutor within five days of the entry into force of this Code, with due respect for the investigative prerogative rules envisaged by this Code.

2. Criminal Cases pending in the Inquiry Body as at 1 January 2014 shall, for the purpose of carrying out Preliminary Investigation under the procedure envisaged by this Code, be sent to the Investigator through the supervising Prosecutor within five days of the entry into force of this Code, with due respect for the investigative prerogative rules envisaged by this Code.

3. The Preliminary Investigation in respect of a person engaged as an Accused prior to the entry into force of this Code shall be continued under the procedure that was in effect prior to 1 January 2014.

4. Cooperation proceedings envisaged by this Code may be applied also in respect of a person engaged as an Accused prior to 1 January 2014, provided that it can be done in compliance with the requirements of this Code.

5. The criminal prosecution time periods prescribed by this Code shall be in effect in respect of a person engaged as an Accused after 1 January 2014.

6. Judicial oversight of Pre-Trial Proceedings in Criminal Cases initiated prior to the entry into force of this Code shall be carried out under the procedure that was in effect prior to 1 January 2014, save for the case envisaged by Paragraph 7 of this Article.

7. The grounds and procedure defined by this Code shall apply when imposing detention as a restraint measure in respect of a person engaged as an Accused prior to the entry into force of this Code or when abolishing or prolonging the term of detention imposed earlier.

8. Criminal Cases, in which the Preliminary Investigation has completed, as at the date of entry into force of this Code, with an accusatory conclusion or a conclusive act, shall be sent to Court and examined under the procedure prescribed by this Code.

9. The permissibility of Evidence received prior to the entry into force of this Code shall be determined in accordance with the legislation that was in effect at the time of obtaining such Evidence.

10. Private accusation proceedings envisaged by Chapter 58 of this Code shall apply in Criminal Proceedings started after 1 January 2014.

11. Criminal Cases in which a decision to schedule a Court examination was rendered prior to the entry into force of this Code shall be examined and solved under the procedure that was in effect prior to 1 January 2014.

12. Petitions for appeal and cassation appeals against Judicial Acts rendered prior to the entry into force of this Code shall be lodged and examined under the procedure that was in effect prior to 1 January 2014.

13. Appeals lodged on the basis of new or newly-emerged circumstances against Judicial Acts that entered into legal force prior to the entry into force of this Code shall, after the entry into force of this Code, be examined under the procedure that was in effect prior to 1 January 2014.

14. Appeals for extraordinary review against Judicial Acts that entered into legal force prior to the entry into force of this Code shall be lodged and examined under the procedure prescribed by this Code.

15. Article 123 of this Code shall enter into force from 1 July 2014.