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REPUBLIC OF ARMENIA LAW

Adopted on 30 June 2021

REPUBLIC OF ARMENIA
CRIMINAL PROCEDURE
CODE

PART ONE: GENERAL PROVISIONS

SECTION 1. CRIMINAL PROCEDURE LEGISLATION AND CRIMINAL PROCEEDINGS

CHAPTER 1. CRIMINAL PROCEDURE LEGISLATION

Article 1. Legislation Regulating Criminal Proceedings

1. Within the territory of the Republic of Armenia, criminal proceedings shall be regulated by the Constitution, the international treaties of the Republic of Armenia, the Constitutional Law "The Judicial Code of the Republic of Armenia" and this Code.

Article 2. The Objective of the Criminal Procedure Code

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

Article 3. Territorial Application of the Criminal Procedure Code

1. Within the territory of the Republic of Armenia, irrespective of the place of the commission of the crime, criminal proceedings shall be conducted in accordance with

the provisions of this Code, unless otherwise provided by the international treaties of the Republic of Armenia.

2. The legal provisions of this Code shall be applied when conducting 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 being under the flag of the Republic of Armenia or bearing the insignia of the Republic of Armenia.

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

Article 4. Application of the Criminal Procedure Code over Time

1. During the criminal proceedings, the provision of this Code, which is effective at the time of performing the respective procedural action or rendering the respective procedural act, shall apply.

2. Admissibility of the evidence shall be determined based on the law which is effective 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 Application of the Criminal Procedure Code based on the Scope of Persons

1. Peculiarities of application of this Code to the persons enjoying diplomatic privileges and immunity based on the international treaties of the Republic of Armenia, as well as to other persons exempted from the criminal jurisdiction of the Republic of Armenia in accordance with the international treaties of the Republic of Armenia or this Code, shall be defined by the international treaties of the Republic of Armenia and this Code.

Article 6. Key Concepts Used in This Code

1. The below listed concepts used in this Code shall have the following meaning:

1) **criminal proceedings**: procedure conducted by the state bodies and officials specified in this Code within the scope of their authority from the moment of becoming duly informed of a *prima facie* crime, which is displayed by performance of procedural actions and adoption of procedural acts;

2) **materials of the proceedings**: enumerated totality of documents and other materials duly collected and received upon initiation of criminal proceedings;

3) **criminal case file:** materials of the proceedings transmitted to the Court and composed in the Court;

4) **pre-trial proceedings:** procedure conducted by the public participants in the proceedings within the scope of their authority;

5) **preliminary investigation:** activities performed by the Investigator within the scope of his authority in connection with an alleged crime;

6) **inquiry:** activities performed by the Inquiry Body during and in support of preliminary investigation, which include performance of undercover investigative actions and operative-intelligence measures;

7) **court proceedings:** procedure conducted by the Court within the scope of its authority;

8) **court examination:** activities performed in connection with the examination of charges at the First Instance Court or verification, at the higher Court, of the lawfulness of the conclusive judicial act rendered based on the result of such examination;

9) **person involved in the proceedings:** the Judge, the public participant in the proceedings, the private participant in the proceedings, the person supporting the proceedings, the Arrested Person, the person who has reported the alleged crime, as well as any other person to the legitimate interests of whom such procedural act concerns;

10) **Court:** a state body exercising judicial powers during the criminal proceedings;

11) **Judge:** a state official administering justice and - as a court - exercising other powers provided for by law during the criminal proceedings;

12) **public participant in the proceedings:** the Prosecutor, the Investigator, the Head of the Investigative Body, the Head of the Inquiry Body and the Inquiry Officer;

13) **private participant in the proceedings:** the Accused, his Legal Representative,

the Defence Counsel, the Victim, the Property Respondent, the Legal Representative and the Authorized Representative of the Victim and of the Property Respondent;

14) **person supporting the proceedings:** the Witness, his Legal Representative and his Attorney, the Expert, the Interpreter, the Psychologist, the Attesting Witness and the Secretary of the Court Session;

15) **parties:** participants representing adverse interests within the court proceedings;

16) **prosecution party:** the Prosecutor, the Investigator, the Victim, his Legal Representative and Authorized Representative participating in the court proceedings;

17) **defence party:** the Accused, his Legal Representative, the Defence Counsel, the Property Respondent, his Legal and Authorized Representative participating in the court proceedings;

18) **Prosecutor:** a state official who, during the criminal proceedings, exercises on behalf of the state the powers vested in him by law within the scope of the authority of the Prosecutor's Office prescribed by the Constitution of the Republic of Armenia;

19) **Investigator:** a state official who conducts preliminary investigation during the criminal proceedings within the scope of his authority;

20) **Head of the Investigative Body:** the Head or the Deputy Head of the Investigative Body or the unit thereof (main department, department, division, section, etc.) authorized to conduct preliminary investigation, who organizes the process of preliminary investigation and ensures its efficiency within the scope of his authority;

21) **Inquiry Body:** the Head (Head of the Inquiry Body) of the unit that operates within the system of a state body designated by the Law on Operative-Intelligence Activities and performs operative-intelligence functions and the employees (Inquiry Officers) who are authorized to perform undercover investigative actions and operative-intelligence measures within the framework of preliminary investigation;

22) **Accused:** a person in relation to whom a criminal prosecution has been instituted and, at the same time, in relation to whom neither a decision on terminating the criminal prosecution nor a judgment of conviction or acquittal has entered into legal force;

23) **Acquitted Accused:** Accused in relation to whom there is an acquitting verdict;

24) **Convicted Accused:** Accused in relation to whom there is a guilty verdict;

25) **Defence Counsel:** an Attorney who has undertaken and performs the defence of the Arrested Person or the Accused during the criminal proceedings;

26) **Victim:** a natural or legal person, the state, community or international organization in relation to whom there are sufficient grounds to presume that he or it has suffered damage as a result of an alleged crime or could have suffered damage had the alleged crime been completed;

27) **Property Respondent:** a natural or legal person that may bear pecuniary liability for the damage inflicted by the alleged crime in cases and procedure prescribed by law;

28) **Public Prosecutor:** the Prosecutor who defends the charges on behalf of the state in the First Instance Court within the proceedings conducted under the public prosecution procedure;

29) **Private Prosecutor:** the Victim who presents the charges on his behalf in the First Instance Court within the proceedings conducted under the private prosecution procedure;

30) **Legal Representative:** the parent, the adoptive parent, the guardian or the trustee of the Accused, Victim, or Witness, who is minor, incapacitated or has a mental health issue, the employee of the Body of Guardianship and Trusteeship – within the scope of his authority, the close relative of the deceased Accused or of the deceased person who has committed the alleged crime, as well as the head of the legal person that is the Victim or the Property Respondent;

31) **Authorized Representative**: an Attorney duly authorized by the Victim or the Property Respondent to represent his legitimate interests during the proceedings, or a duly authorized employee of a legal person that is the Victim or the Property Respondent;

32) **procedural act:** an action performed *ex officio*, a manifested inaction, or a procedural act rendered during the criminal proceedings by the 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 a judgment rendered by the Court;

35) **conclusive procedural act:** a procedural act that concludes the given proceedings, including the conclusive judicial act;

36) **conclusive judicial act:** a judicial act that concludes the given proceedings in the Court;

37) **procedural action:** an action performed *ex officio* by the competent Court, by the public participant in the proceedings or, in cases prescribed by this Code, under their instruction within the framework of the proceedings;

38) **evidentiary action:** a procedural action specified by this Code that is performed by the Investigator or the Court, as well as by the Inquiry Body (under the instruction of the Investigator) or the Expert (under the instruction of the Investigator or the Court) in expectation of obtaining evidence;

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

40) **operative-intelligence measure:** an operative-intelligence measure defined by the Law on Operative-Intelligence Activities the performance of which does not require a court decision;

41) **institution of criminal prosecution:** rendering of a decision by the Prosecutor which contains description and legal assessment of the alleged criminal offence of a person, or submission of a criminal claim to the Court by an alleged Victim;

42) **charges:** a hypothesis about commission of an alleged crime by a specific person, which has factual and legal substantiation;

43) **rehabilitation:** compensation provided by the Republic of Armenia to the Acquitted Accused in accordance with the legislation of the Republic of Armenia, as well as restoration of his rights;

44) **arrest:** restriction of the right to personal liberty without a court decision based on an immediately arisen reasonable suspicion of a commission of a crime or for bringing the Accused before the Court;

45) **protocol:** a document composed by a public participant in the proceedings or by the Secretary of the Court Session, which certifies the performance of certain actions or other facts;

46) **motion:** a request of a participant in the proceedings or other person addressed to the body conducting proceedings;

47) **recusal:** a written motion by a participant in the proceedings on exemption of the Judge, the public participant in the proceedings, the Expert, the Interpreter, the Attesting Witness or the Secretary of the Court Session from participation in the proceedings;

48) **appeal:** a written disagreement with a procedural act (via paper-based media with a handwritten signature put on it, or via electronic media with an electronic signature put on it);

49) **instruction:** a written order (via paper-based media with a handwritten signature put on it, or via electronic media with an electronic signature put on it) given within the scope of their authorities by the Superior Prosecutor to the Supervising Prosecutor, by the Prosecutor to the Investigator, the Head of the Investigative Body, by the Head of the Investigative Body to the Investigator, or by the Investigator to the Inquiry Body - in order to establish certain circumstances, perform certain actions, render decisions, or refrain from performing an action or rendering a decision;

50) **objection:** a written disagreement (via paper-based media with a handwritten signature put on it, or via electronic media with an electronic signature put on it) in relation to the instructions or the procedural acts of a public participant in the proceedings submitted to a competent person by another public participant in the proceedings;

51) **testimony:** duly recorded data that is communicated orally or in writing by the Arrested Person, the Accused, the Witness or the Victim during the questioning, confrontation or verification of testimony on the spot or the questioning of the Expert;

52) **explanation:** an oral or a written assertion during the court proceedings made by a participant in the proceedings or other person for presenting or substantiating his position;

53) **minor:** a person under the age of 18;

54) **relatives:** persons that have a kinship and common ancestors up to a great-grandparent. For the purposes of this Code, the first-degree kinship with a person shall include such person's children, parents and siblings. The second-degree kinship shall include the persons that have the first-degree kinship with a person, as well as the persons that have the first-degree kinship with such persons. The third-degree kinship shall include the persons that have the second-degree kinship with a person, as well as the persons that have the first-degree kinship with such persons;

55) **close relative:** the parent, the child, the adopter, the adoptee, the sibling or the step-sibling (same-parent sibling), the grandfather, the grandmother, the grandchild, the spouse, the spouse's parent or the child's spouse;

56) **home:** a house or a building that is permanently or temporarily used by a specific person or persons for residence, rest, storage of property, as well as for meeting the professional or other needs of a specific person or persons, including an owned or a rented apartment, a garage, a garden house, a hotel room, a ship cabin, a train accommodation cabin, other constituent parts thereof, and, respectively, the private premises directly adjacent thereto, a private and official vehicle as well as an office;

57) **banking or related secrecy:** within the meaning defined by law - banking secrecy, insurance secrecy, official secrecy in the sphere of securities market, pension secrecy, as well as credit information and credit history;

58) **incident scene:** a limited area which the crime report or the sufficient evidence indicate with a persuasive substantiation as a location where the crime has been committed and where at the same time the traces, consequences or other marks of the crime may be present;

59) **good reason:** illness, death of a close relative or any other specific and objective circumstance regardless of the will of a person;

60) **verdict:** written conclusion of the Court on the innocence or guilt of the Accused before rendering a judgment.

CHAPTER 2. FOUNDATIONS OF CONDUCTING CRIMINAL PROCEEDINGS

Article 7. Bodies Conducting Criminal Proceedings

1. The bodies conducting the criminal proceedings shall be:

1) The Investigator – from the moment of initiating the proceedings till the time when the indictment or the decision to terminate the criminal proceedings is transmitted to the Supervising Prosecutor;

2) The Supervising Prosecutor – from the moment of receiving the indictment or the decision to terminate the criminal proceedings from the Investigator till the time when the indictment is transmitted to the Court, when the decision of the Investigator to terminate the criminal proceedings is approved, or when the materials of the proceedings are remitted to the preliminary investigation body;

3) The Court – from the moment of receiving the indictment from the Prosecutor till the completion of the criminal proceedings, as well as in the proceedings of judicial safeguards.

Article 8. Documentation of Criminal Proceedings

1. Documenting of the process and of the results of all the procedural actions performed, as well as of all the procedural acts being rendered in the framework of the criminal proceedings shall be mandatory by the persons authorised by this Code.

2. The procedural actions, as a rule, shall be documented by an electronic protocol. If electronic documenting of the process and of the results of a certain procedural action is impossible, then it shall be performed in paper by using a computer, or if it is impossible, by a handwritten protocol.

3. The short description and the main results of the action performed by means of audio-visual recording during the pre-trial proceedings shall be indicated in the brief protocol composed in the course of that action. The medium of the audio-visual recording shall be attached to the protocol.

4. The process and the results of the action performed during the pre-trial proceedings without audio-visual recording shall be described in detail in the protocol composed in the course of that procedural action or immediately after the completion thereof.

5. The process and the results of the action performed during the court proceedings shall be documented by audio recording and by computer, except for the cases prescribed by this Code. The short description and the main results of the action audio-visually recorded during the court proceedings shall be indicated in the brief protocol composed in the course of that procedural action. The medium of the audio-visual recording shall be attached to the protocol.

6. The requirements prescribed by this Code for paper-based documents shall be *mutatis mutandis* applicable to the form and content of electronic documents (procedural acts, protocols, instructions, objections, motions, recusals, appeals, etc.).

7. The materials of the criminal proceedings documented electronically shall be kept in the electronic system (electronic criminal proceedings or electronic criminal case), whereas the documents prepared by computer or handwritten documents, shall also be kept in the paper-based form. The documents prepared by computer or handwritten documents, as well as the content of the electronic media shall be uploaded to the electronic system. The objects and other materials shall be kept as a constituent part of the electronic materials of the proceedings, whereas their photos shall be uploaded to the electronic system. The list of such objects and materials shall also be uploaded to the electronic system.

8. The operation and security rules of the electronic system shall be defined by the Government.

9. Each document attached to the materials of the proceedings shall be immediately numbered by pages, by consecutive integers as per chronology of attaching them. The materials of pre-trial proceedings shall be compiled in one or several volumes of the criminal case file, each of them containing the list of the materials present in the given volume.

10. In case of loss, damage or destruction of the materials of the proceedings or of the criminal case file, the Superior 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 or the criminal case file shall be recovered by making copies of the existing documents or by re-performing the necessary procedural actions.

Article 9. Attributes and Binding Nature of a Procedural Act

1. Every procedural act adopted during the criminal proceedings must be lawful and substantiated.

2. A procedural act shall be considered as lawful, if it has been rendered in compliance with the requirements of the Constitution, international treaties of the Republic of Armenia, Constitutional Law "The Judicial Code of the Republic of Armenia", this Code and other laws of the Republic of Armenia, which are applied when conducting the proceedings in question.

3. A procedural act shall be considered as substantiated, if it is objectively persuasive for its addressees to the extent of its nature and the deriving consequences.

4. The lawfulness and substantiatedness of the procedural act may be rebutted only by the result of its verification within the framework of a due process of law;

5. Every procedural act shall contain information about when and where it was composed, the name, surname and the position of the person composing it, and the sequential number of the proceedings. A procedural act shall be confirmed by the signature of the authorized person, and the conclusive procedural act - also by the appropriate seal.

6. In cases prescribed by this Code, certain procedural acts may be subject to additional requirements.

7. Procedural acts rendered by the Court or a public participant in the proceedings within the scope of its or his authority shall be binding for the enforcement by all the state and local self-government bodies, officials, natural and legal persons and other organizations.

Article 10. Joinder and Separation of Criminal Proceedings

1. The following may be joined into a single set of proceedings:

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

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

3) Proceedings related to more than one alleged crime, which are interconnected by factual circumstances, with the aim of ensuring proper and comprehensive investigation.

2. A new set of proceedings may be separated from the proceedings related to the commission of one or more alleged crimes by more than one person, if it is required by the need of protection of the interests of justice and cannot negatively affect the fairness of the proceedings.

3. The Investigator or the Court shall render a decision on joinder or separation of the criminal proceedings, which shall contain the reason for initiation of the criminal proceedings, the factual circumstances of the alleged crime, the data, if known, of the person (persons) accused of committing the criminally prosecutable act, the information, if known, about the body or the official undertaking the joined or separated proceedings, as well as the number assigned to the separated proceedings.

4. The sets of proceedings pending before more than one Judge of the same Court shall be joined by the decision of the President of such Court based on the application of one of the Judges. In case of joinder of the proceedings, the charges shall be examined by the Judge who was the first to accept the criminal case for examination.

5. Originals or copies of all the materials of the proceedings, as well as the list of all such materials shall be attached to the decision.

6. The copy of the decision on joinder or separation of the criminal proceedings shall be sent to the private participants in the proceedings within a period of three days and, during the pre-trial proceedings - also to the Supervising Prosecutor promptly.

Article 11. Forms of Conducting Criminal Prosecution

1. Within the framework of the criminal proceedings, the criminal prosecution shall be performed in public or private prosecution procedure, based on the nature and the gravity of the crime.

2. Criminal prosecution in the proceedings related to the crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia shall be conducted in the private procedure. Criminal prosecution in the proceedings related to any other crime shall be conducted in the public procedure.

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

4. The Prosecutor, regardless of bringing a criminal claim or dropping the criminal claim, shall be authorized to perform public criminal prosecution on:

1) The crimes containing elements of domestic violence;

2) The crimes prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia, if the person is unable to protect his legitimate interests because of his helplessness or due to the fact of dependence from the person who has inflicted the alleged damage.

Article 12. Circumstances Precluding Criminal Prosecution

1. Criminal prosecution must not be instituted, and the instituted criminal prosecution shall be subject to termination, if:

1) The person has not committed the act imputed to him;

2) There is a circumstance precluding criminal liability as prescribed by the Criminal Code of the Republic of Armenia (except for non-imputability);

3) There is a judgment or other judicial act, which has entered into legal force in relation to the same act imputed to the person;

4) There is an unrevoked decision of the Prosecutor not to institute criminal prosecution or to terminate the criminal prosecution in relation to the same act imputed to the person, except for the case prescribed by Clause 9 of this Paragraph;

5) The person is not subject to criminal liability by virtue of immunity;

6) The competent body has not lifted, as a result of a due process of law, the immunity of the person who committed the alleged crime;

7) The maximum time period for criminal prosecution as prescribed by this Code has expired and the Prosecutor has failed to transmit the materials of the proceedings to the Court within the course of that time period;

8) The proceedings have been initiated based on the information obtained from a source not envisaged by this Code;

9) The criminal prosecution in the given proceedings has been conducted in the public prosecution procedure, while according to the requirements of this Code, the criminal prosecution should have been conducted only in private prosecution procedure;

10) The person has died;

11) The person, at the time of committing the act, had not reached the age of criminal liability prescribed by law;

12) 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;

13) The person is subject to exemption from criminal liability by virtue of the amnesty;

14) The act imputed to the person has been decriminalized.

2. The circumstances prescribed by Clauses 1 to 9 of Paragraph 1 of this Article are rehabilitative.

3. The existence of the circumstance prescribed by Clause 10 of Paragraph 1 of this Article shall not be considered as a circumstance precluding criminal prosecution, if the Legal Representative of the deceased objects against it on the ground that the deceased has not committed the act imputed to him. In this case the criminal proceedings shall be continued in general procedure, but no punishment shall be imposed in case of rendering a guilty verdict. Clause 10 of Paragraph 1 of this Article shall not be applicable to the cases of recognizing a person as deceased within the framework of civil procedure.

4. The existence of the circumstances prescribed by Clauses 11 to 14 of Paragraph 1 of this Article shall not be considered as precluding the criminal prosecution, if the person

objects against it on the ground that he has not committed the act imputed to him. In such a case, the criminal proceedings shall continue in general procedure, however, in case of a guilty verdict, no punishment shall be imposed against that person.

Article 13. Grounds for Terminating Criminal Proceedings

1. The criminal proceedings shall be terminated, if:

1) The absence of any crime prescribed by the Criminal Code of the Republic of Armenia has been established;

2) The proceedings have been initiated in violation of the terms prescribed by Paragraphs 3 or 6 of Article 173 of this Code;

3) The criminal prosecution against the Accused has been terminated, and all the possibilities of continuing the proceedings have been exhausted;

4) The ground provided for in Clause 9 of Paragraph 1 of Article 12 of this Code exists;

5) During the pre-trial proceedings, the person who has committed an alleged crime and is subject to criminal prosecution under private prosecution procedure has been found, if no grounds to initiate public criminal prosecution exist.

Article 14. Completion of Criminal Proceedings

1. The criminal proceedings shall be completed by:

1) Entering into force of the decision on terminating the criminal proceedings;

2) Entering into force of the conclusive judicial act, if no special measures are required for transmitting it for enforcement;

3) Transmitting the conclusive judicial act for enforcement.

CHAPTER 3. PRINCIPLES OF CRIMINAL PROCEEDINGS

Article 15. Public Nature of Proceedings

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

2. Administration of justice, prosecutorial supervision, preliminary investigation, inquiry and other public activities shall be performed exclusively in the interests of law, by the competent bodies established based on law.

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

4. When ensuring the public nature of the proceedings, the restriction of the rights or freedoms of the person shall be proportionate to the aim of protecting counterbalancing public interests.

5. Natural and legal persons shall be entitled to participate, as provided for by this Code, to the protection of public interests in the criminal proceedings.

6. In the cases and procedure provided for by this Code, natural and legal persons, including the Victim, shall be obliged to facilitate the protection of public interests in the criminal proceedings.

Article 16. Equality of All before the Law

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

2. The provisions prescribed by this Code shall be subject to uniform application to the persons having the same status.

3. The authority of the bodies conducting the criminal proceedings and the form 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 period of time.

Article 17. Presumption of Innocence

1. The person charged with a crime shall be deemed innocent as long as his guilt has not been proven in accordance with the procedure prescribed by this Code by the court judgment that has entered into legal force.

2. Unproven guilt is tantamount to proven innocence.

3. The Accused shall not be obliged to prove his innocence or to render any support to the body conducting criminal proceedings. In addition, the duty to prove the innocence of the Accused may not be placed on his Defence Counsel, Legal Representative, the Property Respondent and his Representative. In case of the public criminal prosecution, the Prosecutor and, in pre-trial proceedings, also the Investigator, shall bear the burden of proving the charges and rebutting the arguments brought in defence of the Accused. In case of the private criminal prosecution, the Victim and his Representative shall bear this burden.

4. All reasonable doubts related to the charges being proven, that have not been dispelled within 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, compulsory measures may be applied against a person solely based on the grounds and in the procedure specified by this Code. Deprivation of liberty of a person during the proceedings shall not pursue the aim of punishment.

2. When choosing a compulsory measure against a person, the body conducting proceedings shall be guided by the principle of minimum. It shall be prohibited to choose a more severe compulsory measure against a person, than the one capable of ensuring the proper behaviour of a person during the criminal proceedings.

3. The Court, the Prosecutor, the Investigator and the Inquiry Body shall be obliged, within the scope of their authorities, to promptly release anyone who has been unlawfully or groundlessly deprived of his liberty.

4. Detention of a person, extension of the detention period, the compulsory placement in a medical institution shall be permitted only by a court decision in cases where the lawful behaviour of the person cannot be guaranteed by other compulsory measures.

5. Upon expiration of the maximum time period prescribed by this Code for a particular type of the arrest, the Arrested Person shall be promptly released, unless there is a decision on detaining him.

6. Everyone shall be promptly and duly notified of reasons of his deprivation of liberty and, if he is accused of a crime, also of the charges.

7. Physical coercion, under the condition of the least necessary interference, shall be permissible only in relation to a person who fails to voluntarily comply with the competent person's lawful order interfering with his personal integrity.

8. During the proceedings, no one shall be subjected to torture, inhuman or degrading treatment or punishment, physical or mental violence, including by the use of medication, hunger, exhaustion, hypnosis, deprivation of medical assistance. It shall be prohibited to obtain information from a person by means of violence, threats, deceit, infringement upon his rights, as well as other illegal actions.

9. 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. The Arrested Person, the Accused, his Legal Representative, the Victim, his Legal Representative, the Property Respondent, his Legal Representative, as well as the Witness shall be entitled, during the proceedings, to receive legal aid of an Attorney invited by them or, in cases prescribed by law, also at the expense of the state resources.

2. The body conducting criminal proceedings shall not be authorised to prohibit the Attorney's presence in the procedural actions performed with the participation of the Attorney's client.

Article 20. Ensuring the Defence of the Accused

1. The Accused may defend himself from the charges both in person and through a Defence Counsel or Legal Representative. The participation of the Defence Counsel or of the Legal Representative of the Accused in the proceedings shall not restrict the rights of the Accused.

2. The body conducting criminal proceedings shall explain to the Accused his rights and ensure a genuine opportunity for his defence from the charges using all the means not prohibited by law.

3. In the cases deemed mandatory by this Code, the body conducting criminal proceedings shall secure the timely and real participation of the Defence Counsel in the proceedings.

4. The body conducting criminal proceedings, in the cases provided for by law, shall involve the Legal 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 of adversarial proceedings. Deviation from the principles of the equality of the parties and of adversarial proceedings shall be permitted only in the proceedings of judicial safeguards of the performance of evidentiary actions, agreement and cooperation proceedings, as well as cassation proceedings and extraordinary review proceedings.

2. The prosecution and the defence shall be separated: they shall be performed by different individuals. The Court shall ensure the right of the parties to participate in the court session.

3. The Court, maintaining its impartiality, shall create conditions necessary for the prosecution party and the defence party for the presentation and comprehensive examination of all the evidence. Upon a motion by a party, the Court shall support such party in obtaining the necessary evidence in accordance with the procedure prescribed by this Code.

4. In Court, the parties shall have equal opportunities for presenting and defending their positions. A judicial act may be based only on such evidence during the examination of which equal conditions have been ensured for each of the parties.

5. The Court shall be bound by the factual circumstances underlying the charges. However, the Court shall not be bound by the legal assessment of the act attributed to the Accused. The parties' positions concerning the application or interpretation 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 established by a sufficient totality 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 underlying the judgment of conviction shall be substantiated with such a volume of evidence that will preclude any reasonable doubt 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 proceedings shall be obliged to comprehensively check the properly formulated arguments brought in defence of the Accused.

5. The conclusion regarding the guilt of the person for the crime may not be based on assumptions: it must be established by the totality of interconnected, relevant, admissible, and credible evidence.

6. Confession testimony may not serve as a basis for convicting a person unless it is substantiated by sufficient evidence examined within a due process of law.

7. In the absence of sufficient counterbalancing factors, the conviction of the Accused may not be solely or predominantly based on the testimony of a person whom the Accused in question or his Defence Counsel or a representative had no opportunity of cross-examination.

8. The deposited testimony may not serve as a basis for a judgment, unless the audio-visual recording thereof is examined in its relevant part in the Court.

Article 23. Ensuring Judicial Protection

1. No one may be deprived of the right to have his case examined in such a Court and by such a Judge, which by virtue of law have jurisdiction or authority over the case.

2. Everyone shall have the right to a trial for determining whether the charges brought against him are substantiated.

3. Everyone who has suffered damage as a result of the alleged crime shall, in cases and procedure prescribed by this Code, have the right to apply to the Court with a claim on subjecting the person who has committed the crime to criminal liability and on compensating the damage inflicted upon him by such crime.

4. Procedural acts of the public participants in the proceedings, that are pertinent to the rights and freedoms of a person, shall be subject to verification by Court in cases and procedure prescribed by this Code.

Article 24. Reasonable Time of Proceedings

1. The preliminary investigation and the court examination must be completed within a reasonable time. The body conducting criminal proceedings, within the scope of its authority, shall manifest due diligence to complete the proceedings within a reasonable time.

2. The Accused shall be entitled to appear before a Court within a reasonable time.

3. The term of holding a person in custody shall be limited to the shortest necessary time period.

4. The Judge, when determining the sequence of examination of criminal cases pending before him, 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 in other proceedings.

5. In the absence of the differentiation features envisaged by Paragraph 4 of this Article, the Judge shall determine the sequence of examination of criminal cases taking into account the timing of their receipt by the Court.

Article 25. Prohibition of Being Tried Twice

1. Within the jurisdiction of the Republic of Armenia no one shall be tried or punished twice for the 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 not to institute criminal prosecution or to terminate criminal prosecution, which has entered into legal force, shall preclude the resumption of criminal prosecution.

3. The review of an act concluding the proceedings based on a claim to improve the situation of a person does not amount to being tried twice.

4. The following shall not amount to being tried twice based on a claim to worsen the situation of a person:

1) the review of the conclusive judicial act or the decision not to institute criminal prosecution or to terminate criminal prosecution that have not entered into legal force;

2) the review of the conclusive judicial act or the decision not to institute criminal prosecution or to terminate criminal prosecution that have entered into legal force, on the basis of a fundamental violation or a new or a newly discovered circumstance, within the time frames prescribed by this Code.

5. Not instituting or terminating the public criminal prosecution shall not be an obstacle for instituting private criminal prosecution.

6. If during the conviction of a person it becomes clear that a measure of administrative or disciplinary liability adequate to a criminal punishment has been imposed on him for the same act, then, in cases of imposing a punishment on him, such a measure must be revoked and taken into consideration during the sentencing.

Article 26. Confidentiality of Private and Family Life

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

2. A person whom the body conducting proceedings offers communicating such information or providing such materials, which subsequently may be reasonably 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. Collection, storage or use of information constituting Attorney secrecy shall be prohibited.

4. During the proceedings, interference with a person's correspondence, telephone conversations and other means of communication, may be only by a court decision in cases and procedure prescribed by law.

5. During the proceedings, information that concerns the person and contains medical, notary, banking and the related secrecy may be collected only by a court decision in cases and procedure prescribed by law.

6. With the exception of an incident scene examination, the evidentiary and other procedural actions at a person's home may be performed only by a court decision or upon the consent of that person. In any event, the search, seizure and examination not considered as an incident scene examination at home, may be conducted solely by a court decision.

7. Within the course of the proceedings, attachment of person's property shall be subject to a mandatory judicial verification.

Article 27. Language of the Proceedings

1. Literary Armenian shall be the language of the proceedings. During the course of the proceedings, everyone, with the exception of the Court and the public participants in the proceedings, shall be entitled to act in the language that he masters.

2. By a decision of the body conducting proceedings, an Accused not mastering the language of the proceedings shall be given an opportunity, at no cost, to exercise, with

the help of an Interpreter, all his rights envisaged by this Code in the language that he masters.

3. Copies of the documents to be delivered as prescribed by this Code shall be provided to the respective person not mastering the language of the proceedings also in the language that he masters.

4. The document presented to the body conducting proceedings in other language shall be attached to the materials of the proceedings along with the Armenian translation certified by an Interpreter.

Article 28. Publicity of Court Proceedings

1. Proceedings in the Court shall be open to the public, except for the cases provided for by this Code.

2. Anyone who has attained 16, as well as any person under 16, who is a participant or a Witness in the proceedings shall have the right to be present in the open court session. Upon the Court's permission, the person who has not attained 16, also shall have the right to be present in the court session.

3. With the aim of protecting private life of the participants in the proceedings, interests of justice or minors, as well as the state security, public order or morals, the Court may, of its own motion or upon the motion of a party, decide to hold the whole court session or the part thereof in-camera. In cases provided for by this Code, holding an in-camera court session shall be mandatory.

4. Acts rendered by the Court during the court proceedings shall be announced publicly. Depending on the grounds for holding an in-camera court session, the Court may decide not to announce certain parts of the judicial act publicly. In any event, the introductory and the conclusive parts of such judicial acts shall be made public.

Article 29. Prohibition of Illegitimate Conduct

1. Private participants in the proceedings and the 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 cases provided for 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 fulfil 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 fulfil his obligations, a restraint measure may be imposed on him, or the restraint measure already applied may be substituted with other more appropriate restraint measure.

SECTION 2. BODIES AND PERSONS INVOLVED IN CRIMINAL PROCEEDINGS

CHAPTER 4. THE COURT

Article 30. Courts Administering Criminal Justice

1. In the Republic of Armenia, criminal justice shall be administered only by the First Instance Courts, the Criminal Court of Appeal and the Court of Cassation.

Article 31. Composition of the Court

1. The proceedings in the First Instance Court, i.e., the court examination and the judicial safeguards proceedings, shall be conducted by a Single Judge.

2. Appellate review and extraordinary review in the Court of Appeal shall be performed by a panel of three Judges, and the special review shall be performed by a Single Judge.

3. The Court of Cassation shall:

1) Determine the question of returning the appeal for review through a Single Judge - a Judge of the Criminal Chamber of the Court of Cassation;

2) Determine the question of leaving the appeal for review without examination, admitting it or refusing to admit it for examination by a panel of three Judges of the Criminal Chamber of the Court of Cassation;

3) Examine the appeal on points of law admitted for examination by a panel of Judges composed of the simple majority of the Judges of the Criminal Chamber of the Court of Cassation.

4. All the Judges conducting proceedings through a panel shall have equal powers in relation to any matter to be determined by the Court.

Article 32. Reserve Judge

1. If the examination of the charges in the Court, due to the nature and the volume thereof, requires an exceptionally long period of time, then the Chairman of that Court, based on a decision of the Court and before the commencement of preliminary court hearings, shall appoint a Reserve Judge from amongst the Judges of that Court, who shall be obliged to be present in the courtroom during the court examination. The Chairman of the Court may decide not to appoint a Reserve Judge, if he finds it not necessary in the proceedings in question.

2. Only one Reserve Judge may be appointed for the same proceedings.

3. If the recusal of the Judge examining the charges is sought or he recuses himself, or the powers of the Judge are terminated, or other grounds precluding his participation in the proceedings exist, the Reserve Judge shall substitute him and continue the proceedings.

Article 33. Authority of the Court

1. The Court shall be authorized, in the procedure prescribed by this Code, to:

1) Conduct proceedings in criminal cases in the first instance procedure;

2) Conduct judicial safeguards proceedings;

3) Conduct judicial review proceedings;

4) Impose procedural sanctions while conducting proceedings;

5) Impose restraint measures and security measures, attachment of property while conducting proceedings in the criminal case;

6) Transmit a judicial act for enforcement.

2. The Court shall exercise other powers in cases prescribed by this Code.

Article 34. The Presiding Judge and His Powers

1. The Single Judge examining the case shall preside over the court session.

2. If the proceedings in the Court of Appeal or the Court of Cassation are conducted through a panel of Judges, the session shall be presided over by the Chairman of the Court or the Chairman of the Chamber or a Judge empowered so in a manner prescribed by law.

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

4. The Presiding Judge shall present all the issues related to the proceedings to all the Judges for resolution. A decision shall be taken by a simple majority of the votes of the Judges. In the event of a tied vote, the decision that is more favourable for the Accused shall be considered as adopted.

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 autonomously, relying on the law and, in cases prescribed by law, also upon the instructions of the competent person. A public participant in the proceedings shall be responsible for his procedural acts that are based on his inner belief.

2. A Prosecutor shall be responsible for the lawfulness of institution, non-institution and termination of criminal prosecution, the lawfulness of pre-trial proceedings,

the lawfulness of the application of compulsory measures by the public participants in the proceedings, the identification of the circumstances necessary for the defence of the public charges in the Court or for bringing a claim for the protection of the state interests, as well as for the lawfulness of appealing or non-appealing of a judicial act.

3. The Head of the Investigative Body shall be responsible for the proper organization of preliminary investigation, including for its effectiveness, by the Investigators under his immediate supervision.

4. The Investigator shall be responsible for the comprehensiveness, due course of preliminary investigation, the performance of investigative actions in a manner and within the time period prescribed by law, as well as for the lawfulness of the compulsory measures imposed by him.

5. The Inquiry Body shall be responsible for the effective performance of undercover investigative actions and operative-intelligence measures in a manner and within the time period prescribed by law, as well as for the lawfulness of the compulsory measures imposed by it.

Article 36. Relationship between the Public Participants in the Proceedings

1. The Superior Prosecutor shall be authorized to give an instruction to the Supervising Prosecutor in connection with any issue that is under the latter's jurisdiction.

2. An instruction given by the Superior Prosecutor within the scope of his authority shall be binding for the Supervising Prosecutor, unless the Supervising Prosecutor finds such instruction to be unlawful or groundless. In such a case, the Supervising Prosecutor, without complying with the instruction of the Superior Prosecutor, shall submit an objection to the Superior of the Prosecutor who has issued such instruction.

3. The Supervising Prosecutor shall be entitled to give instructions to:

1) The Head of the Investigative Body, the Investigator, or the Head of the Inquiry Body – in connection to the cessation of an illegal action performed by them or elimination of the consequences thereof;

2) The Head of the Investigative Body, the Investigator or the Head of the Inquiry Body - in case of revoking their illegal decision – in connection to elimination of the consequences thereof;

3) The Investigator - in connection to the identification of specific circumstances significant for resolving the issue of institution or termination of criminal prosecution, application of compulsory measures, defence of public charges in the Court or submitting a claim for protection of the state interests.

4. The instruction issued by a Supervising Prosecutor within the scope of his authority shall be binding for the Head of the Investigative Body, the Investigator, and the Head of the Inquiry Body, but they shall be authorized to submit a written objection to the Superior Prosecutor in relation to such an instruction. The Head of the Investigative Body shall be authorized to submit a written objection to the Superior Prosecutor also in connection to the instruction addressed to the Investigator that is operating under his immediate supervision.

5. The Head of the Investigative Body shall be authorized to give an instruction to the Investigator operating under his immediate supervision in connection to the proper organization of preliminary investigation, including any issue pertaining to its efficiency, as well as the performance of a specific evidentiary action.

6. The instruction issued by the Head of the Investigative Body within the scope of his authority shall be binding for the Investigator, but the latter shall be authorized to submit a written objection to the Supervising Prosecutor in relation to such an instruction, without suspending the enforcement of such instruction.

7. The Investigator shall be authorized to give an instruction to the Inquiry Body, in order to ensure the comprehensiveness and the normal course of preliminary investigation.

8. An Instruction issued by the Investigator within the scope of his authority shall be binding for the Inquiry Body, but the Head of the Inquiry Body shall be authorized to submit an objection to the Supervising Prosecutor in relation to it, without suspending the enforcement of such instruction.

Article 37. Powers of the Superior Prosecutor during the Pre-Trial Proceedings

1. During the pre-trial proceedings, the Superior Prosecutor shall:

1) In the event of identification of *prima facie* crime elements when exercising his powers, promptly instruct the Supervising Prosecutor to undertake measures for initiation of criminal proceedings and the start of preliminary investigation;

2) Assign the supervision over the lawfulness of pre-trial proceedings to the Subordinate Prosecutor or carry out such supervision himself, exercising the powers of the Supervising Prosecutor in pre-trial proceedings prescribed by this Code;

3) Assign, if necessary, the supervision of the lawfulness of pre-trial proceedings to several Prosecutors appointing the head of the prosecutors' team;

4) Remove, by his decision, the Supervising Prosecutor from the proceedings and assign the supervision over the lawfulness of pre-trial proceedings to another Prosecutor or carry out such supervision himself, exercising the powers of the Supervising Prosecutor in pre-trial proceedings prescribed by this Code;

5) Substitute, by his decision and in cases prescribed by law, the Supervising Prosecutor;

6) Render, within three days, a decision in relation to the recusal sought in respect of the Supervising Prosecutor, as well as the self-recusal of the latter;

7) Initiate, if necessary, a conduct of preliminary investigation by a joint investigative team of several Investigative Bodies;

8) Transfer, by his decision and in accordance with the rules of investigative jurisdiction prescribed by this Code, the proceedings to another Body of Preliminary Investigation in order to ensure comprehensive and impartial preliminary investigation;

9) Upon the recommendation of the Supervising Prosecutor, apply to competent bodies with a motion to institute criminal prosecution against persons who enjoy immunity from criminal prosecution or to obtain consent to deprive them of liberty;

10) Revoke the illegal or groundless decisions and instructions of the Supervising Prosecutor;

11) Render a decision, within three days, on the objections submitted by the Head of an Inquiry Body, Investigator, or the Head of an Investigative Body in relation to the instructions or procedural acts of the Supervising Prosecutor, as well as on the objections submitted by the Supervising Prosecutor in relation to the instructions or procedural acts of the Superior Prosecutor;

12) Render a decision on appeals brought against the procedural acts of the Supervising Prosecutor by the private participants in the proceedings and other persons;

13) During the pre-trial proceedings, exercise other powers reserved for his authority by this Code.

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

1. During the pre-trial proceedings, the Supervising Prosecutor shall:

1) Verify whether the requirements of the legislation on receiving and documenting the reports on the alleged incidents of crime have been complied with;

2) In the event of identification of *prima facie* crime elements when exercising his powers, promptly instruct the Investigator to initiate criminal proceedings and to start preliminary investigation, whereas in case of necessity of correcting the factual description of the alleged crime or of the legal assessment thereof, make an amendment to the protocol on initiation of criminal proceedings;

3) Approve the lawfulness of the decision of the Investigator not to initiate criminal proceedings;

4) For the purpose of verification, request from the Inquiry Body in writing the documents concerning the operative-intelligence measures and undercover investigative actions performed during the criminal proceedings that are to be provided to the Prosecutor pursuant to the Law on Operative-Intelligence Activities or verify such documents at the place of their location;

5) For the purpose of verification, request from the Investigator in writing the materials of the criminal proceedings, or verify them at the place of their location;

6) Render an appropriate decision based on the motion of the Investigator to institute criminal prosecution against a person, to suspend or resume the period of criminal prosecution, or not to institute or to terminate criminal prosecution;

7) Based on the materials of the proceedings, render a decision, of his own motion, to institute, not to institute or to terminate criminal prosecution;

8) Render, within three days, a decision regarding a recusal sought in relation to the Inquiry Officer, the Head of the Inquiry Body, the Investigator, or the Head of the Investigative Body, or in relation to their self-recusals;

9) Render a decision, within three days, on the objections submitted by the Head of the Inquiry Body in relation to the instructions or the procedural acts of the Investigator;

10) Render a decision, within three days, on the objections submitted by the Investigator in relation to the instructions or the procedural acts of the Head of the Investigative Body;

11) Revoke the illegal or groundless decisions of the Head of the Inquiry Body, the Investigator or the Head of the Investigative Body, as well as the illegal or groundless instructions of the Head of the Investigative Body or the Investigator;

12) Render a decision on the appeals brought by the private participants in the proceedings or other persons against the procedural acts of the Head of the Inquiry Body, the Inquiry Officer, the Investigator, or the Head of the Investigative Body;

13) In the event of committing gross violation of law during the criminal proceedings, remove the Head of the Inquiry Body, the Inquiry Officer, or the Investigator from participation in the proceedings in question, but may not render a decision on appointing other persons to substitute them;

14) Recommend the competent Superior Prosecutor to apply to competent bodies with a motion to institute criminal prosecution against persons who enjoy immunity from criminal prosecution or to obtain consent to deprive them of liberty;

15) Approve the indictment or the conclusive act, and transmit the materials of the proceedings to the Court, approve the decision of the Investigator on termination of criminal proceedings;

16) In cases provided for by this Code, by his decision, not approve the indictment, the conclusive act, or the Investigator's decision on termination of criminal proceedings, and remit the materials of the proceedings to the Head of the Investigative Body with an instruction to continue the proceedings;

17) In cases provided for by this Code, be authorized to withdraw a motion submitted to the Court by the Investigator or to participate in the proceedings of judicial safeguards;

18) Sign the pre-trial cooperation agreement;

19) Promptly eliminate, by his decision, any unlawful restriction of the rights or freedoms of the person, including release the persons held unlawfully;

20) Submit, within a day, an objection against the instruction of the Superior Prosecutor to the Superior Prosecutor of the latter without enforcement thereof, if he finds the instruction unlawful or groundless;

21) Submit, within three days, an objection against the procedural act of the Superior Prosecutor to the Superior Prosecutor of the latter without suspending the enforcement of the decision;

22) During the pre-trial proceedings, exercise other powers reserved for his authority by this Code.

2. Within the meaning of Clause 13 of Paragraph 1 of this Article, the following shall be considered as gross violations of law committed during the criminal proceedings:

1) The violation of fundamental human rights or freedoms prescribed by the Constitution;

2) The violation undermining the normal course of the preliminary investigation;

3) A repeated failure to comply with the instructions of the Supervising Prosecutor.

Article 39. Powers of the Prosecutor during the Court Proceedings

1. The Prosecutor shall be entitled to:

1) Seek recusals;

2) Submit motions;

3) Submit objects and documents related to the criminal proceedings in a manner prescribed by law;

4) Request, in a manner prescribed by law, for submission, the objects and documents related to the criminal proceedings, if they are necessary for expressing a position on the new evidence presented by private participants in the proceedings;

5) Express an opinion on motions and statements of other participants in the court proceedings;

6) Raise an objection against the actions of other participants in the court proceedings or of the Presiding Judge of the court session;

7) Change, as a result of examination of evidence, the legal assessment of the act attributed to the Accused;

8) Following a guilty verdict, express a position on the punishment to be imposed;

9) Present remarks concerning the protocol of the court session;

10) Appeal the judicial acts in cases and procedure provided for by this Code;

11) Participate in the court session in the Court of Appel and the Court of Cassation;

12) Exercise other powers reserved for him by this Code.

2. The Prosecutor shall be obliged to:

1) Participate in the court examination in the First Instance Court, and make an opening statement and a closing argument;

2) Participate in the examination of evidence and other materials of the criminal proceedings;

3) Express a position on a motion to apply agreement proceedings;

4) Lodge a claim for compensation of pecuniary damage caused to the State as a result of the act attributed to the Accused;

5) In cases and procedure prescribed by this Code, modify or supplement the charges, by composing a decision on bringing new charges;

6) Comply with the rules of order in the court session and the instructions of the Presiding Judge.

Article 40. Powers of the Head of the Investigative Body

1. In order to ensure the proper organization of preliminary investigation, including the effectiveness thereof, the Head of the Investigative Body shall:

1) Assign the conduct of preliminary investigation to the Investigator operating under his immediate supervision;

2) Transfer, by his decision, the proceedings from one Investigator under his supervision to another one. If such transfer may result in change of the place of the conduct of preliminary investigation, then such transfer may take place only upon the written consent of the respective Superior Prosecutor;

3) Become familiarized with the materials of the proceedings conducted by the Investigator operating under his immediate supervision;

4) Substitute, by his decision, the Investigator removed from the proceedings by another Investigator operating under his immediate supervision;

5) Render a decision on having the preliminary investigation conducted by a team of Investigators operating under his supervision, and upon the initiative of the Superior Prosecutor, render a joint decision together with the Heads of other Investigative Bodies on having the preliminary investigation conducted by a joint investigative team;

6) Within the proceedings conducted by the Investigator under his immediate supervision, instruct the Investigators acting under his supervision to perform separate evidentiary or other procedural actions, provided that there is no need for the proceedings to be conducted by an investigative team;

7) Based on a motion of the Investigator operating under his immediate supervision, submit, within the scope of his authority, a request for mutual investigative assistance, and in the event of receiving such request, ensure the implementation of that request within the scope of his authority.

8) Render a decision on conducting the preliminary investigation in person, exercising all the powers prescribed by this Code for the Investigator;

9) Oversee that evidentiary and other procedural actions, decisions of the Prosecutor, his instructions and those of the Prosecutor are performed, the time periods of criminal prosecution and detention are complied with by the Investigator operating under his immediate supervision;

10) Ensure the implementation of the instruction of the Prosecutor to continue the proceedings with the materials of the remitted proceedings;

11) Submit, within three days, an objection to the Superior Prosecutor in relation to the instructions or the procedural acts of the Supervising Prosecutor, including the decision on institution of criminal proceedings, issued within the proceedings conducted by an Investigator under his immediate supervision, without suspending the enforcement of the instruction or the decision;

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

2. The Head of the Investigative Body shall promptly send to the Supervising Prosecutor the copies of the decisions and instructions envisaged by Paragraph 1 of this Article.

Article 41. Powers of the Investigator

1. The Investigator shall:

1) In the event of existence of *prima-facie* crime elements, compose a protocol on initiation of criminal proceedings and immediately proceed to the performance of preliminary investigation, promptly giving a written notice thereof to the Supervising Prosecutor, whereas in case of necessity of correcting the factual description of the alleged crime or of the legal assessment thereof, make an amendment to the protocol on initiation of criminal proceedings upon the instruction of the Supervising Prosecutor;

2) Autonomously steer the preliminary investigation, adopt the necessary decisions, and perform investigative and other procedural actions in accordance with this Code;

3) In the event of identification of elements of another alleged crime during the preliminary investigation, compose a protocol on initiation of criminal proceedings, promptly giving a written notice thereof to the Supervising Prosecutor;

4) Render a decision on arresting a person or releasing the Arrested Person, promptly sending the copy of the decision to the Supervising Prosecutor;

5) Apply to the Court with the motions envisaged by this Code on application of compulsory measures, extension of the period of detention, and performance of investigative and undercover investigative actions, promptly sending the copy of the motion to the Supervising Prosecutor;

6) Upon the consent or the instruction of the Supervising Prosecutor, release the Accused who is detained;

7) In cases prescribed by this Code, eliminate unlawful restrictions of the rights or freedoms of a person;

8) Within the scope of his authority, render a decision on application, replacement or termination of a restraint measure, promptly sending the copy of the decision to the Supervising Prosecutor;

9) Take measures to secure compensation of damage inflicted by the alleged crime, the potential confiscation of property and the compensation of the court expenses;

10) Give instructions to the Inquiry Body on performing undercover investigative actions and operative-intelligence measures;

11) Request from the Inquiry Body the results of operative-intelligence measures and undercover investigative actions;

12) Instruct the Inquiry Body to enforce the decisions on arrest and detention, and receive support from the Inquiry Body during the performance of evidentiary and other procedural actions;

13) Submit a motion to the Supervising Prosecutor to institute criminal prosecution, to suspend or resume the time period of criminal prosecution, not to institute or to terminate the criminal prosecution;

14) Bring charges based on the decision of the Supervising Prosecutor on institution of criminal prosecution;

15) Render a decision on recognizing as a Victim, as a Legal Representative;

16) Ensure participation of an Attorney in the proceedings as a Defence Counsel or an Authorized Representative;

17) Involve a Witness, an Expert, an Interpreter, or an Attesting Witness in the proceedings;

18) Within the scope of his authority, render decisions in relation to the motions of the private participants in the proceedings;

19) Attach, as evidence, the objects or documents presented by the private participants in the proceedings to the materials of the proceedings, or render a decision on inadmissibility of such objects or documents based on the grounds prescribed by this Code;

20) Render decisions on the recusals sought in respect of the Attesting Witness, the Interpreter or the Expert;

21) In cases and procedure provided for by this Code, exempt the Defence Counsel, the Authorized Representative, the Legal Representative or the Witness's Attorney from participation in the proceedings, or remove them from the proceedings upon the approval of the Supervising Prosecutor;

22) Submit, within three days, an objection to the Superior Prosecutor in relation to the instruction or decision of the Supervising Prosecutor, without suspending the enforcement of such instruction or decision;

23) In the event of disagreement with the instruction of the Supervising Prosecutor to terminate the proceedings or to complete the preliminary investigation in any other way or to apply a compulsory measure, as well as in case of disagreement with the decision of the Supervising Prosecutor to institute criminal prosecution against a person who is not under arrest, submit, within a day, an objection to the Superior Prosecutor in relation to it, without the enforcement thereof;

24) Submit, within three days, an objection to the Supervising Prosecutor in relation to the instruction or the procedural act of the Head of the Investigative Body, without suspending the enforcement of such instruction or decision;

25) Render a decision on termination of the criminal proceedings, submitting it to the Supervising Prosecutor for approval;

26) Compose an indictment or a conclusive act, submitting it to the Supervising Prosecutor for approval;

27) Based on the instruction of the Head of the Investigative Body, continue the proceedings in connection to the materials remitted by the Prosecutor;

28) Render a decision on carrying out a verification or re-verification prescribed by law;

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

Article 42. Powers of the Inquiry Body

1. The Inquiry Officer shall:

1) Perform operative-intelligence measures stipulated by the Law on Operative-Intelligence Activities;

2) Perform undercover investigative actions in accordance with this Code;

3) Facilitate performance of evidentiary and other procedural actions;

4) Present the results of operative-intelligence measures and undercover investigative actions to the Investigator in accordance with the procedure prescribed by law;

5) In the event of identification of elements of other alleged crime during the performance of the Inquiry, promptly give a written notice to the Investigator thereof;

6) In the event of immediately arisen reasonable suspicion on having committed a crime, perform the arrest and the accompanying personal search, promptly informing the competent Prosecutor thereof;

7) Prior to bringing to the administrative building of the Inquiry Body, promptly release the person arrested of his own motion, if there is no further need for holding the person in custody, promptly informing the Head of the Inquiry Body thereof;

8) Take measures for retention of the documents and objects significant to the criminal proceedings, as well as for preservation of the incident scene;

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

2. The Inquiry Officer shall exercise the powers prescribed by Clauses 2 and 3 of Paragraph 1 of this Article only based on the instruction of the Investigator.

3. The Head of the Inquiry Body shall:

1) Within the scope of his authority, organize and ensure the performance by the Inquiry Officer of his powers prescribed by Paragraph 1 of this Article;

2) Exercise the powers prescribed by Paragraph 1 of this Article in person;

3) Based on the instruction of the Investigator or of his own motion, render a decision on performing operative-intelligence measures;

4) Submit, within three days, an objection to the Superior Prosecutor in relation to the instruction or the procedural act of the Supervising Prosecutor, without suspending the enforcement of such instruction or decision;

5) Submit, within three days, an objection to the Supervising Prosecutor in relation to the instruction or the procedural act of the Investigator, without suspending the enforcement of such instruction or decision;

6) Upon the written request of the Prosecutor, present to the latter, for verification, the documents pertaining to performance of operative-intelligence measures and undercover investigative actions that are to be provided to the Prosecutor as prescribed by the Law on Operative-Intelligence Activities;

7) Promptly release the person arrested of the own motion of the Inquiry Officer and kept in the administrative building of the Inquiry Body, if there is no further need to hold the person in custody, promptly informing the competent Prosecutor thereof;

8) Exercise other powers reserved for him by this Code and the Law on Operative-Intelligence Activities.

4. The preservation of the incident scene prescribed by Clause 8 of Paragraph 1 of this Article may also carry out the designated officer of the Police or of other state body of the Republic of Armenia having the respective authority based on law.

CHAPTER 6. PRIVATE PARTICIPANTS IN THE PROCEEDINGS

Article 43. Rights and Obligations of the Accused

1. The Accused, in accordance with the procedure prescribed by this Code, shall be entitled to:

1) Receive promptly, at no cost, a written notification and explanation of his rights prescribed by Paragraph 1 of this Article after being arrested or charged;

2) Be informed promptly and thoroughly and in the language that he understands, about the factual circumstances and legal assessment of the charges presented and, in case of being taken in custody, also about the grounds and reasons for depriving him of liberty;

3) After presenting the charges, receive promptly, at no cost, the copy of the decision on institution of criminal prosecution and, in case of being taken in custody, also the copies of the decisions on arrest or detention, as well as the copies of those procedural acts, which he has the right to appeal upon the procedure prescribed by this Code;

4) After the arrest or detention, inform promptly but no later than within 12 hours thereof, the person of his choice and, in case of being a military serviceman, also his commander, about his whereabouts;

5) In case of the arrest or detention, request a medical examination at no cost and receive a report at no cost, as well as invite a doctor of his choice and communicate with him without any obstacles, including without any visual or auditory surveillance;

6) Remain silent or testify, including in presence of the Defence Counsel;

7) From the moment of being arrested or charged, have a Defence Counsel of his choice or defend himself and, in case of not having means to pay for the Defence Counsel's services, have a Defence Counsel appointed at the expense of the state;

8) Have confidential and unhindered meetings with his Defence Counsel, without limitation of such meetings, except for the cases of performing procedural actions with participation of the Accused;

9) Before giving testimony, be informed in writing about the right not to give a testimony about himself, his or her spouse and close relatives, as well as that his testimony may be used as evidence;

10) Cross-examine persons who testified against him or have such persons cross-examined, and have persons testifying for him invited and examined under the same conditions as persons who testified against him;

11) Participate in evidentiary and other procedural actions performed upon his motion or that of his Defence Counsel, provided that it is of no harm to the interests of other persons or of justice;

12) Receive the decision of the body conducting proceedings on refusing his participation in the evidentiary action performed upon his motion or that of his Defence Counsel;

13) Submit evidence to have them attached to the materials of the proceedings and examined;

14) Declare his innocence or guilt;

15) Submit motions;

16) Seek recusals;

17) Object against the actions of the public participants in the proceedings;

18) Become familiarized with the protocol of the evidentiary and other procedural action performed with his participation, present remarks on the accuracy and completeness of the records made in such protocol, become familiarized with the protocol of the court session and present his remarks thereon, and, in case of participating in evidentiary and other procedural action or being present at the court session, request that the circumstances mentioned by him be recorded in the relevant protocol;

19) Upon his request, receive, at no cost, the copy of the protocol of the evidentiary and other procedural action performed with his participation, including the copy of the attachments thereof;

20) Become familiarized with decisions on application of a restraint measure or other compulsory measure in relation to him, and on ordering expert examination, and, upon his request, receive copies of such decisions and the expert conclusion at no cost;

21) Receive, at no cost, the copy of the indictment, of the conclusive act, of the criminal claim, of the property claim, and of the conclusive judicial act;

22) From the moment of receiving a written notification on completion of the preliminary investigation, become familiarized with all the materials of the proceedings, receive their copies at no cost, and write out any information therefrom;

23) Submit a motion to the Court to apply agreement proceedings;

24) Submit a motion to the Supervising Prosecutor to apply cooperation proceedings;

25) Receive a proper notification on the place and time of conducting the court session;

26) Be present in the court sessions of the First Instance Court and the Court of Appeal, participate in the examination of evidence, make an opening statement, a closing argument, and a closing statement;

27) Appeal the procedural acts of the public participants in the proceedings or the Court, including the conclusive procedural acts;

28) Withdraw the appeal submitted by him;

29) Be informed of the appeal submitted by another participant in the proceedings, which concerns his interests, and submit a response thereto;

30) In the court session, express an opinion about motions and statements of other participants in the proceedings;

31) Object against the actions of other participants in the proceedings or the Presiding Judge of the court session;

32) Receive compensation of damage inflicted by the unlawful actions of public participants in the proceedings or the Court;

33) In case of a threat to his life, health and legitimate interests, as well as those of his family member or other close person, request and receive special protection from the body conducting proceedings;

34) Exercise other rights reserved for him by this Code.

2. The Accused shall be obliged:

1) To appear upon the invitation of the body conducting proceedings;

2) Upon the request of the body conducting proceedings, to undergo medical examination, fingerprinting, personal search, inspection and expert examination, to be photographed or to provide the samples envisaged by this Code for expert examination;

3) Not to obstruct the criminal proceedings, including not to interfere illegally with the proving process;

4) When leaving for other place, to give the body conducting proceedings an advance notice of his new whereabouts and the means of communication with him;

5) To abide by the instructions of the body conducting proceedings and the rules of order in the court session.

Article 44. Legal Representative of the Accused

1. The person shall have the right to be recognized as a Legal Representative of his child, adoptee or a person under his guardianship or tutorship who is minor, incapacitated or has a mental health issue and has been subjected to criminal prosecution. An employee of the competent Guardianship and Tutorship Body shall be involved as a Legal Representative to represent the legitimate interests of the minor Accused who has been left without care.

2. The person has the right to be recognized as a Legal Representative of his deceased close relative, if he, on the ground that the deceased has not committed the act imputed to him, objects against not instituting or terminating the criminal prosecution against the latter.

3. The person shall be recognized as a Legal Representative of the Accused by a decision of the body conducting proceedings.

4. The body conducting proceedings may decide to permit, as a rule, only one parent, adoptive parent, guardian or tutor to participate in the proceedings as the Legal Representative of the Accused. Moreover, the parent, adoptive parent, guardian or tutor shall be permitted to participate as the Legal Representative, if others, in case of his consent, do not object against his candidacy.

5. The Legal 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.

6. The Legal Representative of the Accused shall also be entitled to:

1) Invite a Defence Counsel to perform the defence of the Accused;

2) Know about the Accused being invited to the body conducting proceedings and to accompany the Accused who is in freedom or under house arrest;

3) Participate at presenting the charges;

4) Participate in the questioning of the Accused, as well as in other evidentiary actions performed with the participation of the Accused.

7. The Legal Representative of the Accused shall not be entitled to perform any action that is detrimental to the interests of the Accused.

8. The Legal Representative of the Accused shall exercise all of his rights and fulfil all the obligations placed upon him in person.

9. The Legal Representative of the Accused may be invited and questioned as a Witness.

Article 45. Grounds and Conditions for Participation of a Defence Counsel in Criminal Proceedings

1. The Attorney shall assume the defence of the Accused:

1) Following the invitation of the Accused, his Legal Representative, a close relative, as well as of other persons and upon the subsequent written consent of the Accused;

2) Following the appointment by the Chamber of Advocates of the Republic of Armenia on the basis of a written request of the body conducting proceedings.

2. The body conducting proceedings shall request from the Chamber of Advocates of the Republic of Armenia to appoint a Defence Counsel, if:

1) In cases provided for in this Code, the participation of a Defence Counsel in the proceedings is mandatory and the Accused does not have a Defence Counsel;

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

3. In the case provided for in Clause 1 of Paragraph 2 of this Article, prior to initiating the appointment of a Defence Counsel, the body conducting proceedings shall be obliged to propose to the Accused to invite a Defence Counsel of his choice. After the appointment of a Defence Counsel in the case provided for in Clause 2 of Paragraph 2 of this Article, the body conducting proceedings shall undertake measures to verify the statement of the Accused regarding his indigency.

4. The body conducting proceedings may not recommend any Attorney to be invited as a Defence Counsel.

5. Immediately upon assumption of the defence, the Defence Counsel shall present to the body conducting proceedings the following:

1) A personal identification document;

2) The document certifying that he is an Attorney;

3) The document confirming his powers, which is validated by the signature of a person who, pursuant to this Code, has the right to invite a Defence Counsel, or the decision of the competent body on appointing a Defence Counsel.

6. Within the same proceedings, the same Defence Counsel may represent only one Accused, except for the cases in which such a prohibition may reasonably undermine the interests of justice and, at the same time, two or more Accused have voluntarily, consciously and in writing waived the opportunity of being represented by different Defence Counsels.

7. One Accused may have more than one Defence Counsel. The participation of all the Defence Counsels of the Accused in the procedural action shall not be mandatory. A procedural action in which participation of the Defence Counsel is mandatory may not be declared as illegal, if not all of the Defence Counsels of the Accused have participated in such action.

Article 46. Mandatory Participation of the Defence Counsel

1. Participation of the Defence Counsel in the proceedings shall be mandatory from the moment of handing over the decision on arrest to the Arrested Person, and, if it has not been handed over within the time period prescribed by this Code, then from the moment of expiration of 6 hours following the arrest of the person, or from the moment of presenting the charges, until the body conducting proceedings has accepted the waiver of Defence Counsel by the Accused in cases and procedure prescribed by this Code.

2. The body conducting proceedings shall not accept the waiver of Defence Counsel by the Accused or shall take prompt measures to secure participation of the Defence Counsel in the proceedings, if:

1) It is difficult for the Accused to defend himself due to having a psychological, mental or a physical health issue;

2) The Accused does not master or does not sufficiently master the Armenian language;

3) The Accused was minor at the time of committing the act imputed to him;

4) The Accused is in a compulsory military service;

5) The Accused has been declared as incapacitated by a judicial act of a Court that has entered into legal force;

6) Proceedings on application of compulsory medical measures are being conducted in relation to the person;

7) Remote proceedings are being conducted in relation to the Accused;

8) The Accused persons have conflicting interests, and one of them has a Defence Counsel;

9) The Court has rendered a decision on judicial deposition of a testimony related to the Accused;

10) The Accused has submitted a motion to apply agreement or cooperation proceedings;

11) The procedural sanction envisaged by Clause 3 of Paragraph 2 of Article 141 of this Code has been imposed on the Accused;

12) The Accused has submitted a motion on conducting the court session in his absence;

13) The body conducting proceedings has exempted the Defence Counsel from participation in the subsequent proceedings;

14) The body conducting proceedings has removed the Defence Counsel from the proceedings;

15) The interests of justice so require.

3. In cases stipulated by Paragraph 2 of this Article, when the Accused does not have a Defence Counsel, the body conducting proceedings shall be obliged to ensure participation of the Defence Counsel in the proceedings immediately after the respective ground rendering such participation mandatory has emerged.

Article 47. Waiver of Defence Counsel

1. Waiver of Defence Counsel is the statement of the Accused about conducting his defence (in person) without the help of any Defence Counsel. The statement of the Accused regarding the waiver of Defence Counsel shall be documented in the protocol composed by the body conducting proceedings.

2. Waiver of Defence Counsel shall be accepted by the body conducting proceedings only if the Accused has made the statement thereon at his own initiative, voluntarily, knowingly, in presence of the Defence Counsel participating in the proceedings, and it can be reasonably assumed that the Accused is capable of conducting his defence in person. The Accused shall not be obliged to disclose the reasons for the waiver of Defence Counsel. When the waiver of Defence Counsel is due to the indigency of the Accused, the body conducting proceedings shall, in accordance with the procedure provided for by this Code, promptly request an appointment of a Defence Counsel at the expense of the state.

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

proceedings, however, the Defence Counsel shall be given sufficient time to conduct the defence of the Accused effectively.

4. The expressed will of the Accused to waive the new Defence Counsel shall not be binding for the body conducting proceedings, if the Accused obviously abuses his right of waiver of Defence Counsel. In such case, the body conducting proceedings shall render a decision not to accept the waiver of Defence Counsel.

Article 48. Termination of Participation of the Defence Counsel

1. The Defence Counsel shall cease to participate as such in the criminal proceedings if:

1) The Arrested Person or the Accused or the latter's Legal Representative have terminated the powers of the invited or appointed Defence Counsel, aiming to replace the Defence Counsel;

2) The body conducting proceedings has accepted the waiver of Defence Counsel by the Accused in cases and procedure prescribed by this Code;

3) The body conducting proceedings has exempted the Defence Counsel from subsequent participation in the proceedings in view of the circumstances prescribed by this Code;

4) The body conducting proceedings has removed the Defence Counsel from the proceedings based on the grounds and in the procedure prescribed by this Code.

Article 49. Rights and Obligations of the Defence Counsel

1. The Defence Counsel, aiming to identify the circumstances refuting the charges, precluding the liability of the Accused, or mitigating the punishment and the compulsory procedural measures, as well as aiming to protect the rights and interests of the Accused, in accordance with the procedure prescribed by this Code, shall be entitled to:

1) Know what the Accused is suspected of, or become familiarized with the charges brought against him, as well as participate in his questioning;

2) Have confidential and unhindered meetings with the person defended by him, without limitation of meetings, except for the cases of performing procedural actions with participation of the Accused;

3) Participate in any evidentiary or other procedural action performed with participation of the person defended by him, participate in any evidentiary or other procedural action performed upon his motion or that of the person defended by him, unless it harms the interests of others or of justice, and participate in evidentiary or other procedural action upon the proposal of the Investigator in other cases;

4) Explain to the Accused his rights and obligations;

5) Draw attention of the person performing evidentiary or other procedural action to the violation of law committed by such person;

6) Obtain and submit evidence to have them attached to the materials of the proceedings and examined;

7) Question natural persons, in case of consent;

8) Request and obtain documents or information from the state and local self-government bodies, individual entrepreneurs and legal persons, unless they contain secrecy preserved by law;

9) Seek recusals;

10) Submit motions;

11) Object against the actions of the public participants in the proceedings;

12) Become familiarized with the protocol of the evidentiary and other procedural action, performed with his participation or that of the person defended by him, present remarks on the accuracy and completeness of the records made in such protocol, become familiarized with the protocol of the court session and present his remarks thereon, and, in case of participating in the evidentiary and other procedural action or being present at the court session, request to record the circumstances mentioned by him in the relevant protocol;

13) Receive, upon his request, the copies of the protocols, including the copies of the attachments thereof, of the evidentiary and other procedural actions performed with his participation or that of the person defended by him, as well as upon his motion or that

of the person defended by him, as well as the copies of the documents which the person defended by him has the right to receive under this Code;

14) From the moment of receiving a written notification on the completion of the preliminary investigation, become familiarized with all the materials of the proceedings, obtain the copies thereof, and write out any information from the case file;

15) Receive a proper notification on the place and time of the court session;

16) Be present in the court sessions of the First Instance Court, the Court of Appeal and the Court of Cassation, participate in the examination of evidence, make an opening statement and a closing argument;

17) Appeal the procedural acts of the public participants in the proceedings and of the Court, including conclusive procedural acts;

18) Withdraw the appeal submitted by him, except for the cases prescribed by this Code;

19) Be informed of the appeal for review submitted by another participant in the proceedings, which concerns the interests of the person defended by him, and submit a response to it;

20) In case of reconciliation of the Accused with the Victim, act on behalf of the person defended by him based on the instruction from such person;

21) In the court session, express an opinion about the motions and statements of other participants in the proceedings;

22) Object against the actions of other participants in the proceedings or the Presiding Judge of the court session;

23) 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;

24) In case of a threat to his life, health and legitimate interests, as well as to those of his family member or other close person, request and receive special protection from the body conducting proceedings.

25) Exercise other rights reserved for him by this Code.

2. The Defence Counsel shall not be entitled to:

1) Admit, contrary to the position of the person defended by him, the connection of such person to the crime and his guilt in committing it;

2) Disclose information that has become known to him during the performance of the defence, except for the cases prescribed by law;

3) Terminate his powers upon his own initiative, except for the cases prescribed by law;

4) Hinder the invitation, appointment of another Defence Counsel or participation of the latter in the proceedings;

5) Re-entrust to other person his powers to participate in the proceedings.

3. Unless specifically instructed by the person defended by him, the Defence Counsel shall not be entitled to:

1) Declare about reconciliation of the person defended by him with the Victim;

2) Accept the criminal claim or the property claim submitted against the Accused;

3) Withdraw an appeal brought by the Accused.

4. The Defence Counsel shall be obliged to:

1) Immediately after assuming the defence, notify the body conducting proceedings thereof;

2) Appear upon the invitation of the body conducting proceedings for the purpose of providing legal aid to the Accused;

3) Abide by the instructions of the body conducting proceedings and the rules of order in the court session;

4) Apply to the body conducting proceedings with a request to exempt him from participation in the proceedings, if the failure to do so will inevitably harm the legitimate interests of the person defended by him.

Article 50. Rights and Obligations of the Victim

1. The decision on recognizing as a Victim shall be rendered by the Investigator or the Court.

2. In accordance with the procedure provided for by this Code, the Victim shall be entitled to:

1) Become familiarized with the charges brought against the Accused;

2) Give testimony;

3) Refuse to give testimony or provide materials, if it is reasonably assumed, that later they may be used to his detriment or to the detriment of his or her spouse or close relative;

4) Submit evidence to have them attached to the materials of the proceedings and examined;

5) Submit motions;

6) Seek recusals;

7) Have an Authorized Representative and terminate his powers;

8) Receive, at no cost, the copies of procedural acts concerning his status;

9) Object against the actions of the public participants in the proceedings;

10) Become familiarized with the protocol of the evidentiary and other procedural action performed with his participation, present remarks on the accuracy and completeness of the records made in such protocol, become familiarized with the protocol of the court session and present his remarks thereon, and, in case of participating in evidentiary and other procedural action or being present at the court session, request to record the circumstances mentioned by him in the relevant protocol;

11) Receive, at no cost, the copies of the decisions to institute, not to institute, to suspend or to terminate criminal prosecution, as well as to terminate the criminal proceedings, the copy of the indictment, of the conclusive act and of the conclusive judicial act;

12) Receive, upon his request, at no cost, the copy of the protocol, including of the attachment thereof, of the evidentiary and other procedural action performed with his participation, as well as the copy of the decision on assigning an expert examination and the copy of the expert conclusion;

13) From the moment of receiving a notification on completion of preliminary investigation, become familiarized with all the materials of the proceedings, and, upon his request, receive, at no cost, the copies thereof, and write out any information therefrom;

14) Receive a proper notification on the time and place of holding the court session;

15) Be present in court sessions of the First Instance Court, the Court of Appeal and the Court of Cassation, participate in the examination of evidence, make a closing argument;

16) Appeal the procedural acts of the public participants in the proceedings and of the Court, including the conclusive procedural acts;

17) Withdraw the appeal submitted by him or his Authorized Representative;

18) Be informed of the appeal for review submitted by another participant in the proceedings, which concerns his interests, and submit a response thereto;

19) In the court session, express an opinion about motions and statements of other participants in the proceedings;

20) Object against the actions of other participants in the proceedings or the Presiding Judge of the court session;

21) Reconcile with the Accused, in cases prescribed by this Code;

22) Submit a property claim to the Court for compensation of pecuniary damage allegedly inflicted upon him, change the property claim prior to the completion of examination of the evidence, or drop the property claim prior to the Court's retiring to the separate room;

23) Receive compensation of the damage inflicted by the crime;

24) Receive, each time, compensation of the costs incurred for the participation in evidentiary or other procedural action;

25) Receive back the property and originals of the documents that belong to him and have been taken by the body conducting proceedings;

26) In cases provided for by law, be exempted from the obligation to pay for the services of his representative;

27) In case of a threat to his life, health and legitimate interests, as well as to those of his family member or other close person, request and receive special protection from the body conducting proceedings;

28) Exercise other rights reserved for him by this Code.

3. The Victim shall be obliged to:

1) Appear upon the invitation of the body conducting proceedings;

2) Give testimony;

3) Upon the request of the body conducting proceedings, provide the samples envisaged by this Code for expert examination, undergo inspection and examination;

4) Upon the request of the body conducting criminal proceedings, undergo an outpatient expert examination for the purpose of checking his ability to correctly perceive, memorize and reproduce circumstances subject to clarification within the course of the proceedings, if there are sufficient grounds to question his ability to do so;

5) When leaving for other place, give the body conducting proceedings an advance notice of his new whereabouts and the means of communication with him;

6) Abide by the instructions of the body conducting proceedings and the rules of order in the court session.

4. The Victim shall exercise his rights and fulfil his obligations in person or through a representative, if that corresponds to the nature of such rights and obligations. The rights of the minor or incapacitated Victim, or the Victim having a mental health issue, shall be exercised by his Legal Representative instead of him upon the procedure prescribed by this Code.

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

6. If sufficient grounds that have emerged during the proceedings exist, the Investigator or the Court shall terminate the Victim status by a decision.

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

1. The person shall have the right to be recognized as a Victim in case of the death of his close relative who has been a Victim or a person subject to recognition as a Victim.

2. If the Victim or the person that is subject to recognition as a Victim has deceased, then one of the close relatives of the deceased, who has submitted such motion to the body conducting proceedings within the time period prescribed by this Code, shall be recognized as a Victim.

3. As a rule, only one of the close relatives of a deceased Victim or a deceased person subject to recognition as a Victim shall be recognized as a Victim instead. And, the close relative, whose candidacy is supported by the others, must be recognized as a Victim in case of his consent.

4. In case of the absence of close relatives of the deceased or their failure to submit an appropriate motion, the body conducting proceedings shall recognize one of the relatives of the deceased as a Victim, upon the consent of such relative.

5. A person recognized as a Victim under the procedure prescribed by this Article shall enjoy all the rights of the Victim, except for the rights prescribed by Clauses 17 and 21 of Paragraph 2 of Article 50 of this Code, as well as shall bear all the obligations of the Victim, except for the obligation prescribed by Clause 3 of Paragraph 3 of Article 50 of this Code.

Article 52. Victim as a Private Prosecutor

1. In private prosecution proceedings, the person shall be recognized as a Victim, if, based on the criminal claim submitted by him, there are sufficient grounds to presume that he has suffered damage due to the acts prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia or could have suffered such damage in case of the completion of the alleged crime.

2. In private prosecution proceedings, the person shall be recognized as a Victim by a court decision on commencement of criminal proceedings.

3. The Victim, who is a Private Prosecutor, shall also have additional rights and obligations envisaged by Chapter 54 of this Code.

Article 53. Legal Representative of the Victim

1. The person shall have the right to be recognized as a Legal Representative of his child, adoptee or a person under his guardianship or tutorship who is minor, incapacitated or has a mental health issue and has been recognized as a Victim. An employee of the competent Guardianship and Tutorship Body shall be involved as a Legal Representative to represent the legitimate interests of the minor Victim who has been left without care. The head of the legal person recognized as a Victim shall be entitled to be recognized as a Legal Representative of the Victim.

2. The person shall be recognized as a Legal Representative of the Victim by a decision of the body conducting proceedings.

3. The body conducting proceedings may decide to permit, as a rule, only one parent, adoptive parent, guardian or tutor to participate in the proceedings as a Legal Representative of the Victim. Moreover, the parent, adoptive parent, guardian or tutor, whose candidacy, in case of his consent, is supported by the others, must be permitted to participate as a Legal Representative.

4. The Legal Representative of the Victim shall have all the rights and bear all the obligations of the Victim, except for the rights and obligations that are inseparable from the person of the Victim.

5. The Legal Representative of the Victim shall also be entitled to:

1) Know about the Victim being invited to the body conducting proceedings and accompany him;

2) Participate in the questioning of the Victim, as well as to other evidentiary actions performed with his participation.

6. The Legal Representative of the Victim shall not be entitled to perform any action that is detrimental to the interests of the Victim.

7. The Legal Representative of the Victim shall exercise all of his rights and fulfil all of the obligations placed upon him in person.

8. The Legal Representative of the Victim may be questioned as a Witness.

Article 54. Authorized Representative of the Victim

1. The person shall be recognized as an Authorized Representative of the Victim by a decision of the body conducting proceedings.

2. The Victim may have several Authorized Representatives. The body conducting proceedings may limit the number of Authorized Representatives simultaneously participating in a procedural action or in a court session provided that it will not jeopardize the interests of justice.

3. The Victim's Representative with general power shall have all the rights and shall bear all the obligations of the Victim, except for the rights and obligations that are inseparable from the person of the Victim. He shall be entitled to participate in all the procedural actions in which the Victim participates.

4. Without special power, the Authorized Representative of the Victim shall not be entitled to do the following on behalf of the Victim:

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

2) To reconcile with the Accused;

3) To drop the submitted property claim or change its amount;

4) To withdraw the appeal submitted in favour of the Victim.

5. The Authorized Representative of the Victim shall exercise all of his rights and fulfil all of the obligations placed on him in person.

Article 55. Rights and Obligations of the Property Respondent

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

2. The Property Respondent, in the procedure prescribed by this Code, shall be entitled to:

1) Become familiarized with the charges brought against the Accused;

2) Become familiarized with the property claim submitted against him and the materials substantiating it;

3) Submit a response to the property claim submitted against him;

4) Submit evidence to have them attached to the materials of the proceedings and examined;

5) Submit motions;

6) Seek recusals;

7) Have an Authorized Representative and terminate his powers;

8) Receive a proper notification about the place and time of the court session;

9) Become familiarized in Court with all the materials of the proceedings, obtain copies thereof or write out any information from the case file;

10) Obtain, at no cost, the copies of the property claim submitted against him and the materials attached thereto;

11) Obtain, upon his request, the copy of the indictment or of the conclusive act, as well as obtain, at no cost, the copy of the conclusive judicial act;

12) Be present in court sessions of the First Instance Court, Court of Appeal and the Court of Cassation, participate in the examination of evidence, make a closing argument;

13) Express, in the court session, an opinion regarding the motions and statements of other participants in the proceedings in relation to the property claim;

14) Object against the actions of other participants in the proceedings or the Presiding Judge of the court session, in relation to the property claim, and request to record the circumstances pointed out by him in the protocol of the court session;

15) Become familiarized with the protocol of the court session and present remarks on the accuracy and completeness of the records made therein;

16) Appeal the judicial act, in the part pertinent to the claim submitted against him and in accordance with the procedure provided for by this Code;

17) Withdraw the appeal submitted by him or his representative;

18) Become informed of the appeal for review submitted by other participant in the proceedings, which concerns his interests, and present a response to it;

19) Accept the claim before the retiring of the Court to a separate room for rendering a conclusive judicial act;

20) For the purpose of securing the claim submitted against him, deposit funds with the Court as an alternative to the attachment of his property that has been imposed;

21) Exercise other rights reserved for him by this Code.

3. The Property Respondent shall be obliged to:

1) Appear upon the invitation of the Court;

2) When requested by the Court, present objects, documents, or other materials that are in his possession;

3) Abide by the instructions of the Presiding Judge of the court session and the rules of order in the court session.

4. The Property Respondent shall exercise the rights reserved for him and fulfil the obligations placed upon him in person or through a representative, if that corresponds to the nature of such rights and obligations.

5. The rights and obligations of the legal person recognized as a Property Respondent shall be exercised by its Legal Representative.

Article 56. Representative of the Property Respondent

1. The person shall be recognized as a Legal Representative or as an Authorized Representative of the Property Respondent by a court decision.

2. The head of the legal person that is the Property Respondent shall be entitled to be recognized as a Legal Representative of the Property Respondent.

3. The Property Respondent may have several Authorized Representatives. The Court may limit the number of the Authorized Representatives simultaneously participating in the court session, provided that it will not jeopardize the interests of justice.

4. The representative of the Property Respondent with general power shall have all the rights and shall bear all the obligations of the Property Respondent, except for the rights and obligations that are inseparable from the person of the Property Respondent.

5. Without special powers, the Authorized Representative of the Property Respondent shall not be entitled to do the following on behalf of the Property Respondent:

1) To accept fully or in part the property claim;

2) To conclude settlement with the Victim or his representative;

3) To withdraw the appeal submitted in favour of the Property Respondent.

6. The Legal Representative and the Authorized Representative of the Property Respondent shall exercise all of their rights and fulfil all of the obligations placed on them in person.

7. The Legal Representative of the Property Respondent may be questioned as a Witness.

CHAPTER 7. PERSONS SUPPORTING THE PROCEEDINGS

Article 57. The Witness

1. Witness is the person who may be aware of any circumstance to be established in the proceedings, summoned upon the initiative of a party or the body conducting proceedings for the purpose of giving testimony.

2. A person may be questioned as a Witness after he has been informed in writing about his rights and obligations prescribed by Article 58 of this Code, as well as about the liability provided for by law for refusing to give testimony or for giving false testimony.

3. The following persons may not be questioned as a Witness or deliver objects, documents or other materials:

1) An Attorney - for establishment of information that may be known to him in relation to applying for legal aid or providing such aid;

2) A person who became aware of the information concerning particular proceedings, in relation to his participation as the Defence Counsel, the Authorized Representative of the Victim, the Authorized Representative of the Property Respondent, the Attorney of the Witness;

3) The Human Rights Defender, in relation to circumstances that have become known to him in connection to the performance of his duties;

4) A Judge, a former Judge, a Prosecutor or a Secretary of the Court Session, in relation to the proceedings in which they have exercised their procedural powers;

5) An Investigator, in relation to the proceedings, in which he has exercised his procedural powers, except for the case provided for by Paragraph 4 of Article 331 of this Code.

6) An ordained confessor priest about the circumstances that have become known to him from the confession.

Article 58. Rights and Obligations of the Witness

1. The Witness shall be entitled to:

1) Know in which proceedings he is invited;

2) Appear to the body conducting proceedings with an Attorney;

3) Refuse to give testimony or provide materials, if it is reasonably assumed, that later they may be used to his detriment or to the detriment of his or her spouse or close relative;

4) When giving testimony, use documents and his written notes upon permission of the body conducting proceedings;

5) When giving testimony, compose plans, layouts and drawings;

6) During the pre-trial proceedings, write down his testimony in person;

7) Object against the actions of the public participants in the proceedings;

8) Become familiarized with the protocol of evidentiary and other procedural action performed with his participation, as well as the relevant part of the protocol of the court session and present remarks on the completeness and accuracy of his testimony as recorded therein, and request to record the circumstances pointed out by him in the respective protocol;

9) Receive, each time, compensation of the costs incurred for the participation in evidentiary or other procedural action;

10) Receive back the objects, documents and other materials taken from him by the body conducting proceedings, unless otherwise provided for by law.

11) In case of a threat to his life, health and legitimate interests, as well as to those of his family member or other close person, request and receive special protection from the body conducting proceedings;

12) Exercise other rights reserved for him by this Code.

2. The Witness shall be obliged:

1) To appear upon the invitation of the body conducting proceedings, on the day and at time mentioned in the written notice;

2) To give testimony;

3) Upon the request of the body conducting proceedings, to provide the samples envisaged by this Code for expert examination, undergo inspection and examination, if it is necessary for checking the testimony given by him;

4) Upon the request of the body conducting proceedings, to undergo an outpatient expert examination for the purpose of checking his ability to correctly perceive, memorize and reproduce circumstances subject to identification within the course of the proceedings, if there are sufficient grounds to question his ability to do so;

5) When leaving for another place, to give the body conducting proceedings an advance notice of his new whereabouts and the means of communication with him;

6) Not to leave the courtroom or the court building without the permission of the Presiding Judge;

7) To abide by the instructions of the body conducting proceedings and the rules of order in the court session.

Article 59. The Expert

1. Expert is the person disinterested in the subject matter of the proceedings, who shall support the proceedings through the use of special knowledge or skills, by:

1) Performing examination and issuing a written conclusion based on it;

2) Issuing a written opinion without performing examination;

3) Participating in the performance of evidentiary or other procedural action.

2. For the support envisaged by Clause 1 of Paragraph 1 of this Article, the Expert shall be involved by the body conducting proceedings or by a private participant in the proceedings. For the support envisaged by Clause 2 of Paragraph 1 of this Article, the Expert shall be involved only by a private participant in the proceedings. For the support

envisaged by Clause 3 of Paragraph 1 of this Article, the Expert shall be involved only by the body conducting proceedings.

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

4. No Expert on the issues of the law of the Republic of Armenia or international law shall be involved in the criminal proceedings.

Article 60. Rights and Obligations of the Expert

1. The Expert shall be entitled to:

1) Request from the body conducting proceedings the objects, samples and other materials necessary for providing a conclusion;

2) For the purpose of providing a conclusion or an opinion, become familiarized, with the permission of the body conducting proceedings, with the relevant materials of the proceedings, and write out the necessary information therefrom, pose questions to the Accused, the Victim and Witness for the purpose of properly carrying out his obligations;

3) Participate in procedural actions insofar as they are related to the subject matter of the expert examination and are necessary for providing a conclusion;

4) Draw the attention of the Court and the participants in the proceedings to the circumstances related to the subject matter of the expert examination and the formulation of the questions being posed to the Expert;

5) Become familiarized with the protocol of the evidentiary or other procedural action performed with his participation, as well as with the relevant part of the protocol of the court session, and make remarks on the completeness and accuracy of the records of his actions or the information provided by him;

6) In case of being involved by the body conducting proceedings, receive, each time, compensation of the costs incurred for the participation in evidentiary or other procedural action;

7) When participating in the performance of evidentiary and other procedural actions, become familiarized with the materials of the proceedings and pose questions to the attendees with the permission of the person performing the respective action;

8) When participating in the performance of evidentiary and other procedural actions, draw the attention of the attendees to the circumstances falling within the scope of his professional competence;

9) When participating in the performance of evidentiary and other procedural actions, make statements on the issues pertaining to discovery, documentation, and taking of the objects and documents, as well as to the application of technical means;

10) Exercise other rights reserved for him by this Code.

2. The Expert shall be obliged:

1) To present documents confirming his professional competence to the body conducting proceedings and to the person who applied to him;

2) To provide a substantiated and impartial conclusion or opinion regarding the questions posed to him, 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 provide a conclusion or opinion not only on the questions posed, but also on the circumstances that are within the scope of his competence and have emerged during the performance of examination;

5) Upon the request of the body or the person that involved him, to present an estimate of the examination costs and the report on the costs actually incurred;

6) To appear when invited by the body conducting proceedings;

7) Upon the request of the body conducting proceedings, as well as that of the parties, to communicate, during the court session, information on his professional competence and on his relationship with the persons involved in the proceedings;

8) When participating in an evidentiary or other procedural action, not to leave the place of the performance of such action without the permission of the person performing it, or the courtroom without the permission of the Presiding Judge;

9) Without permission of the body conducting proceedings, not to disclose the information that has become known to him during the evidentiary or other procedural action performed with his participation, as well as in an in-camera court session;

10) To abide by the instructions of the body conducting proceedings and the rules of order in the court session.

Article 61. The Interpreter, His Rights and Obligations

1. Interpreter is the person disinterested in the subject matter of the proceedings, who is invited by the body conducting proceedings to perform interpretation. The person capable of understanding numb sign language and communicating with a deaf person by signs shall also be an Interpreter.

2. The Interpreter shall properly master the language of the proceedings and the language from which interpretation is performed.

3. Other participant in the proceedings shall not be entitled to be an Interpreter.

4. The Interpreter shall be entitled to:

1) Ask, with the permission of the body conducting proceedings, questions to the persons who are present during the interpretation for the purpose of correcting interpretation;

2) Become familiarized with the protocol of an investigative or other procedural action performed with his participation, as well as with the relevant part of the protocol of the court session, and make remarks on the completeness and accuracy of the records of the interpretation;

3) Receive, each time, compensation of the costs incurred for the participation in evidentiary or other procedural action;

4) Exercise other rights reserved for him by this Code.

5. The Interpreter shall be obliged to:

1) Appear upon the invitation of the body conducting proceedings for performing interpretation;

2) Present documents confirming his qualification to the body conducting proceedings;

3) Upon the request of the Court, as well as the parties, communicate, during the court session, information on his professional experience and his relationship with the persons involved in the proceedings;

4) Throughout the whole time period necessary for ensuring the interpretation, be present at the place of performance of the evidentiary or other procedural action, or in the courtroom, and not to leave such place without the permission of the person performing the respective action or the courtroom without the permission of the Presiding Judge;

5) Interpret fully, correctly and in a timely manner;

6) Confirm with his signature the completeness and accuracy of the records of the interpretation in the protocol of evidentiary or other procedural action performed with his participation, as well as the accuracy of the interpretation recorded in the documents being delivered to the public and private participants in the proceedings;

7) Abide by the instructions of the body conducting proceedings, unless they concern the content of the interpretation;

8) Abide by the rules of order of the court session.

Article 62. The Attesting Witness, His Rights and Obligations

1. Attesting Witness is the adult citizen of the Republic of Armenia, who is disinterested in the subject matter of the proceedings and, upon the invitation of the body conducting proceedings, participates in the performance of an evidentiary action for the purpose of confirming the fact of its performance, its content, the process of performance, and the results. The Attesting Witness must be capable of completely and correctly perceiving the actions performed in his presence.

2. The Attesting Witness shall be entitled to:

1) Fully observe the process of the respective evidentiary action;

2) Become familiarized with the protocol of the respective evidentiary action;

3) During the performance of the evidentiary action, as well as while becoming familiarized with the protocol, make remarks and request to make a record of the circumstances pointed out by him in the respective protocol;

4) Receive, each time, compensation of the costs incurred for participation in the evidentiary or other procedural action;

5) Exercise other rights reserved for him by this Code.

3. The Attesting Witness shall be obliged:

1) To provide information on his relationship with the respective persons involved in the proceedings upon the request of the body conducting proceedings and the person performing the evidentiary action;

2) To participate in the performance of the respective evidentiary action from its beginning to the end;

3) To abide by the instructions of the person performing the evidentiary action;

4) Not to leave the place of performance of the respective evidentiary action without the permission of the person performing it;

5) Not to disclose the information that has become known to him during the participation in the evidentiary action;

6) Sign the protocol of the respective evidentiary action.

Article 63. The Secretary of the Court Session, His Rights and Obligations

1. Secretary of the Court Session is the public servant disinterested in the subject matter of the proceedings, who shall maintain the protocol of the court session.

2. The Secretary of the Court Session shall be entitled to:

1) Verify the identity of the participants in the court session prior to the opening of the court session;

2) Ask questions to the participants in the court session for the purpose of ensuring the completeness and accuracy of the circumstances to be documented in the protocol.

3. The Secretary of the Court Session shall be obliged to:

1) Determine, prior to the opening the court session, the presence of persons invited to the court session;

2) Provide information about his relationship with the persons involved in the respective proceedings upon the request of the Court or a party;

3) Fully and correctly record in the protocol the actions and decisions of the Court, the motions submitted and recusals sought, the statements and objections made, the testimonies and explanations given in the court session, as well as other circumstances that need to be reflected in the protocol of the court session;

4) Prepare the protocol of the court session in the time frame prescribed by this Code;

5) Abide by the instructions of the Presiding Judge and the rules of order of the court session.

4. The Secretary of the Court Session shall be responsible for the completeness and accuracy of the protocol of the court session. When composing the protocol, the Secretary of the Court Session shall not be bound by anyone's instructions related to the content of the records being made in the protocol.

CHAPTER 8. IMPOSSIBILITY OF PARTICIPATION IN THE PROCEEDINGS

Article 64. Self-Recusal, Recusal or Exemption from Participation in the Proceedings

1. The circumstances precluding participation of the respective persons in the criminal proceedings, as provided for by this Chapter, shall serve as grounds for self-recusal, recusal or exemption from participation in the proceedings.

2. Persons involved in the proceedings, who have information about the 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 proceedings, and in case of having a belief that the normal course of the proceedings will be impossible with their participation, recuse themselves or submit a motion for exempting them from participation in the proceedings.

3. A private participant in the proceedings shall be entitled to seek the recusal of a public participant in the proceedings at any time. Seeking the recusal of a Judge shall be possible only prior to the beginning of the main court hearings, unless the person seeking the recusal substantiates that the ground for the recusal has become known to him after the beginning of the main court hearings and could not have been known earlier.

4. Recusal, self-recusal or the motion on exemption from participation in the proceedings must be substantiated. It shall be possible to seek the recusal of the same person based on the same ground only once.

Article 65. Resolving the Issue of Self-Recusal, Recusal or Exemption from Participation in the Proceedings

1. The self-recusal, recusal or the motion to exempt from participation in the proceedings shall be resolved by the body conducting proceedings, within the scope of its authority. The respective person may be exempted from participation in the proceedings also of the own motion of the body conducting proceedings.

2. A decision shall be rendered in relation to self-recusal, recusal or exemption from participation in the proceedings, the copy of which shall be sent to the participants of such proceedings.

3. A Judge who has recused himself shall be obliged to disclose to the parties the grounds for recusing himself, which shall be recorded *ad verbum*. If a Judge who has recused himself believes that he can be impartial during the proceedings, then he shall be authorized to propose to the parties to discuss, in his absence, the possibility of disregarding the self-recusal. If the parties, in the absence of the Judge, come to an agreement to disregard the Judge's self-recusal, then the Judge shall continue the court proceedings after such decision is protocolized.

4. The recusal sought in respect of a Judge shall be resolved by the Judge in question. If the recusal is sought in respect of more than one Judge of the panel of Judges conducting the proceedings or in respect of the whole composition of the Court, then each Judge shall resolve the issue of his recusal.

5. The recusal of a Prosecutor sought during the pre-trial proceedings shall be resolved by the Superior Prosecutor, and by the respective Court - within the court proceedings.

6. The recusal sought in respect of an Investigator, the Head of the Investigative Body, an Inquiry Officer, or the Head of the Inquiry Body shall be resolved by the Supervising Prosecutor.

7. The body conducting proceedings shall resolve the issue of exempting the Defence Counsel, the Authorized Representative of the Victim or of the Property Respondent, the Attorney of the Witness, the Legal Representative of the Accused, of the Victim, of the Property Respondent, or of the Witness from participation in the proceedings.

8. The body conducting proceedings shall resolve the recusal sought in respect of the Expert or the Interpreter.

9. The recusal sought in respect of the Attesting Witness shall be resolved by the person performing the evidentiary action. The recusal sought in respect of the Secretary of the Court Session shall be resolved by the Court.

10. If Recusals are simultaneously sought in respect of several persons, the first to be resolved shall be the recusal sought in respect of the person who has the authority to resolve the issue of recusal of the others.

11. When the simultaneous participation of several persons in the proceedings is precluded due to kinship or other relations of personal dependency, the person, who has acquired the status of a person involved in the proceedings later than the others, shall be exempted from the proceedings, except for the Legal Representative.

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

1. The Judge, in addition to the grounds prescribed by Paragraph 2 of Article 71 of the Constitutional Law "The Judicial Code of the Republic of Armenia", may not participate in the proceedings if:

1) During the pre-trial proceedings, within the scope of the procedure prescribed by this Code, he has listened to the confession of the Accused in connection with the charges brought against him;

2) He has been an eyewitness to the facts examined in the proceedings in his personal capacity;

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

2. A Judge who participated in the court examination in the First Instance Court or the Court of Appeal may not subsequently participate in the proceedings. The fact that the Judge has held the preliminary court hearings, shall not be itself a circumstance precluding his subsequent participation in the respective proceedings. The participation of the Judge of the Court of Cassation in the proceedings shall not preclude his subsequent participation in the same proceedings in the Court of Cassation.

3. The Judge shall not be obliged to recuse himself or to accept the sought recusal, if another body of justice cannot be established for rendering a judicial act.

Article 67. Circumstances Precluding Participation of the 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 Clauses 2 and 3 of Paragraph 1 of Article 66 of this Code exist;

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

2. Participation of a Prosecutor in the pre-trial proceedings, as well as defending of charges by him in the Court shall not be a circumstance precluding his subsequent participation in the respective proceedings as a Prosecutor.

3. Earlier participation in the respective proceedings as an Investigator, a Head of the Investigative Body, an Inquiry Officer, or a Head of the Inquiry Body shall not be a circumstance precluding one's subsequent participation in the same proceedings as a public participant in the proceedings.

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

1. The Defence Counsel, or the Authorized Representative of the Victim or of the Property Respondent, or the Attorney of the Witness may not participate in the proceedings if:

1) He has participated in the same proceedings as a Judge, as a public or private participant in the proceedings, or as a person supporting the proceedings, except for the cases of acting as an Attorney of the Witness;

2) He has kinship or other relations of personal dependency with the official who has participated or is participating in the proceedings at the moment of involvement of the Defence Counsel;

3) In connection to the same proceedings, he is providing or has provided legal aid to a person whose interests contradict to the interests of the client;

4) He has kinship or other relations of personal dependency with a person involved in the given proceedings, whose interests contradict to the interests of the client;

5) He may not be an Attorney according to law or a judicial act.

2. During the same proceedings, the Attorney may represent only one person (have only one client), except for the situation envisaged by Paragraph 6 of Article 45 of this Code or cases of representing more than one Victim or Witness.

Article 69. Circumstances Precluding Participation of the Legal Representative in the Proceedings

1. The guardian or the trustee of the Accused, or of the Victim or of the Witness who is minor, incapacitated or has a mental health issue, or the employee of the Body of Guardianship and Trusteeship – within the scope of his authority, or the close relative of the deceased Accused or of the deceased person who has committed a crime, as well as the head of the legal entity that is the Victim or the Property Respondent, may not participate in the proceedings if:

1) He has kinship or other relations of personal dependency with the Judge or the public or private participant in the proceedings who has participated or is participating in the proceedings at the moment of involvement of the Legal Representative;

2) He has participated in the proceedings as a Judge or a public or private participant in the proceedings or a person supporting the proceedings, except for the cases of acting as a Witness;

3) His conduct is obviously detrimental to the interests of the person represented by him: by his conduct he has hindered the exercise of the rights of the represented person or has led to their violation;

4) He may not be a Legal Representative according to law or a judicial act;

5) There are facts in relation to him indicating the commission of an alleged crime detrimental to the interests of the person represented by him.

2. The parent or the adoptive parent of an Accused, Victim or a Witness who is minor, incapacitated or has a mental health issue may not participate in the proceedings in cases prescribed by Clauses 3 to 5 of Paragraph 1 of this Article.

Article 70. Seeking the Recusal of the Attesting Witness

1. The Attesting Witness may not participate in the proceedings, if any of the circumstances envisaged by Clauses 2 and 3 of Paragraph 1 of Article 66 of this Code exist, as well as if he has no right to be an Attesting Witness pursuant to law.

2. The Attesting Witness may not participate in the proceedings, if he has a relationship of personal or office dependency with the body conducting proceedings.

3. Earlier participation of the Attesting Witness in an evidentiary action shall be a circumstance precluding his participation in another evidentiary action within the same proceedings, except for the case prescribed by Paragraph 6 of Article 210 of this Code.

Article 71. Seeking the Recusal of the Expert, Interpreter, or the Secretary of the Court Session

1. The Expert, or the Interpreter, or the Secretary of the Court Session may not participate in the proceedings if:

1) Any of the circumstances envisaged by Clauses 2 and 3 of Paragraph 1 of Article 66 of this Code exist;

2) He may not be an Expert, an Interpreter, a Secretary of the Court Session according to law or a judicial act;

3) He has kinship or personal relations or relations of other dependency with a Judge, public or private participant in the proceedings;

4) There are circumstances that cast doubt on his professional competence or impartiality.

2. A person's earlier participation in the proceedings as an Expert, Interpreter, or a Secretary of the Court Session shall not be a circumstance precluding his subsequent participation in the same proceedings.

Article 72. Exemption from Participation in the Proceedings when there is a Good Reason

1. The Attorney, the Legal Representative, the Secretary of the Court Session, the Attesting Witness, or the Interpreter, whose participation in the proceedings is not precluded by any of the grounds envisaged by this Code, may submit a motion to be exempted from participation in the proceedings if there is a good reason hindering such participation.

CHAPTER 9. SPECIAL PROTECTION OF PERSONS INVOLVED IN THE PROCEEDINGS

Article 73. Ground and Procedure for Application of a Special Protection Measure

1. A special protection measure shall be applied in relation to a person involved in the criminal proceedings, as well as to his family member or other close person (hereinafter in this Chapter - "the Protected Person"), if there is a real danger that may reasonably threaten their life, health, or legitimate interests in connection with the conduct of the proceedings.

2. In case of necessity of application of a special protection measure, the body conducting proceedings, upon a written application of the respective person or of its own motion, shall render a decision on application of a special protection measure, promptly assigning an authorized state body for its enforcement.

3. A written request to apply a special protection measure in relation to military servicemen, as well as the persons deprived of liberty may be submitted to the body conducting proceedings by the head of the administration of the respective institution of his own motion or based on the application of such person.

4. The application of a person to apply a special protection measure shall be considered by the body conducting proceedings promptly, but no later than within 24 hours upon its receipt. The applicant shall be immediately notified of the decision rendered, and the copy of the respective decision shall be sent to him.

5. In the event of refusing to apply a special protection measure, the person who has submitted the application shall be entitled to appeal against the respective decision in accordance with the procedure prescribed by this Code.

6. The rendering of the decision envisaged by Paragraph 5 of this Article shall not preclude the same person from submitting a new application to apply such a measure, if new circumstances confirming the necessity of application of a special protection measure emerge.

Article 74. Special Protection Measures

1. The special protection measures to be applied during the proceedings shall be as follows:

1) Restriction to approach or to communicate with the Protected Person;

2) Classification of the personal identification data of the Protected Person;

3) Surveillance of the Protected Person, his home, and property;

4) Provision of a personal protection measure to the Protected Person;

5) Transfer of the Protected Person to another place of residence;

6) Replacement of the personal identification documents or change of the physical appearance of the Protected Person;

7) Change of the place of work, service, or education of the Protected Person;

8) Removal from the courtroom or holding of an in-camera court session;

9) Questioning of the Protected Person in Court through a special procedure.

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

3. The procedure and conditions for applying special protection measures shall be defined by the Government.

4. The special protection of a person subject to protection pursuant to the rules and conditions envisaged by the international treaties of the Republic of Armenia may be conducted within the territory of a foreign state as well.

Article 75. Restriction to Approach or to Communicate with the Protected Person

1. In case of the existence of the facts indicative of a threat to the life or health of the Protected Person, if they are not sufficient for institution of criminal prosecution against the person, the body conducting proceedings shall officially warn him of prohibition to approach or to communicate with the Protected Person, as well as of the potential liability prescribed by law for violation of such requirement.

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

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

1. The personal identification data of the 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 on the media containing information, as well as in the protocols of the procedural actions or court sessions, by replacing, upon the decision of the body conducting proceedings, the surname, name, and patronymic of the Protected Person contained in the protocol data of the materials of the proceedings with pseudonyms and by not mentioning the data on the place of residence;

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

2. The decision of the body conducting 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 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 proceedings and the Supervising Prosecutor.

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

1. The body conducting proceedings, in cooperation with other authorized bodies, shall:

1) Arrange surveillance of the Protected Person, his home, or property;

2) Ensure the secure movement of the Protected Person, including when appearing to the body conducting proceedings for participation in an evidentiary or other procedural action or a court session;

3) Equip the Protected Person's Home with a fire alarm or other alarm means;

4) Change the telephone numbers used by the Protected Person or his vehicle registration plate.

2. When applying the special protection measure envisaged by Paragraph 1 of this Article, the body conducting proceedings shall be authorized, upon the written consent of the Protected Person and in a manner prescribed by this Code, to monitor the correspondence, telephone conversations and other means of communication of the Protected Person.

Article 78. Provision of a Personal Protection Measure to the Protected Person

1. For ensuring the personal security of the Protected Person, appropriate personal protection measures shall be provided to him in the procedure envisaged by legislation.

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

1. The Protected Person, upon his written consent, may 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 ensured by other means.

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

1. Upon the written consent of the Protected Person, his identity documents may be replaced and his physical appearance may be changed.

2. The replacement of documents and change of the physical appearance, including the plastic surgery, shall be performed only in case when the personal security of the Protected Person cannot be ensured by other means.

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

1. If for elimination of the danger threatening the Protected Person it is required that he leaves the place of his work, service, or education, then the body conducting proceedings shall help such person, upon his request or consent, to move to a new place of work, service, or education.

2. The duration of furlough of the Protected Person shall be calculated as a work experience, and compensation for such period shall be paid which shall be no less than the salary paid for the previous work or service. If the salary at the new place of work or service is lower, the difference between the salaries shall be compensated in a manner prescribed by the legislation of the Republic of Armenia.

3. When transferring the Protected Person to another place of education, the conditions at his former place of education shall be taken into consideration.

Article 82. Removal from the Courtroom or Holding of an In-Camera Court Session

1. To ensure the security of the Protected Person, the Presiding Judge of the court session shall be authorized to:

1) Remove certain individuals from the courtroom;

2) Hold an in-camera court session.

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

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

2. If necessary, the questioning of the Protected Person may be performed in conditions that preclude the identification of such Person. A mask, makeup, a device

changing the voice of the Protected Person, and protection means not contradicting the law may be used for that purpose.

3. The questioning of the Protected Person outside the plain view of the other participants in the proceedings may be performed with the help of audio-visual and other technical means (a curtain, a protective screen, or a membrane), with participation of the participants in the proceedings.

Article 84. Rights and Obligations of the Protected Person

1. The Protected Person shall be entitled to:

1) Submit a motion to undertake additional special protection measures or to terminate them;

2) Know about the special protection measure implemented in relation to him, its type, implementation time period, and termination;

3) Appeal against the procedural acts of the body conducting proceedings;

4) Waive the special protection measure.

2. The Protected Person shall be obliged to:

1) Comply with the orders of the body conducting proceedings and of other authorized body;

2) Promptly inform the body conducting proceedings about any danger threatening him or any case of unlawful action, as well as about any change which has occurred in his personal life and activities in relation to his protection;

3) Refrain from performing any activity that hinders the effective application of the special protection measure;

4) Preserve the property and documents provided to him for temporary use by the body conducting proceedings or another authorized body.

3. The body conducting proceedings, after rendering a decision on application of the special protection measure, shall be obliged to explain promptly to the Protected Person his rights and obligations, as well as support the Protected Person in exercising such rights and fulfilling such obligations.

Article 85. Grounds and Procedure for Termination of a Special Protection Measure

1. The application of a special protection measure shall be terminated, if the Protected Person:

1) No longer needs the application of the given special protection measure due to the application of another special protection measure;

2) No longer needs special protection due to elimination of the real threat to his life, health, or legitimate interests;

3) Has died.

2. The application of a special protection measure may be terminated, if the Protected Person has so requested in writing.

3. The application of a special protection measure shall be terminated by a decision of the body conducting 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 shall be evidence in the criminal proceedings:

1) Testimony of the Arrested Person;

2) Testimony of the Accused;

3) Testimony of the Victim;

4) Testimony of the Witness;

5) Conclusion of the Expert;

6) Opinion of the Expert;

7) Testimony of the Expert;

8) Physical evidence;

9) Protocols of evidentiary and other procedural actions;

10) Extra-procedural documents.

2. Documents prepared and the data recorded on any type of media device as a result of the performed operative-intelligence measure shall not be evidence in the criminal proceedings.

Article 87. Testimony of the Arrested Person

1. Testimony of the Arrested Person is the data communicated in writing or orally by the arrestee not having the status of the Accused during the respective evidentiary action prescribed by this Code and performed within the course of the arrest on the ground of an immediately arisen reasonable suspicion on having committed a crime.

Article 88. Testimony of the Accused

1. Testimony of the Accused is the data communicated by him orally or in writing during the respective evidentiary action prescribed by this Code and performed within the course of pre-trial or court proceedings.

Article 89. Testimony of the Victim

1. Testimony of the Victim is the data communicated by him orally or in writing during the respective evidentiary action prescribed by this Code and performed within the course of pre-trial or court proceedings.

Article 90. Testimony of the Witness

1. Testimony of the Witness is the data communicated by him orally or in writing during the respective evidentiary action prescribed by this Code and performed within the course of pre-trial or court proceedings.

Article 91. Conclusion of the Expert

1. Conclusion of the Expert are the substantiated written findings of the Expert in relation to the questions posed to him by the body conducting proceedings or the private participant in the proceedings, as well as to any other question within the scope of his competence, that have been reached through the use of special knowledge or skills in science, technology, arts, crafts, or any other field, based on examination of the relevant materials of the proceedings, the corpse, or the respective person involved in the proceedings.

Article 92. Opinion of the Expert

1. Opinion of the Expert are the substantiated written findings of the Expert in relation to the questions posed to him by the private participant in the proceedings, as well as to any other question within the scope of his competence, that have been reached through the use of special knowledge or skills in science, technology, arts, crafts, or any other field, without examination of the relevant materials of the proceedings, the corpse, or the respective person involved in the proceedings.

Article 93. Testimony of the Expert

1. Testimony of the Expert is the data communicated by him orally or in writing in the course of the questioning performed during the pre-trial or court proceedings in accordance with the procedure prescribed by this Code.

2. Testimony of the Expert may relate to:

1) The clarification or interpretation of his conclusion or opinion after presentation thereof;

2) The facts as perceived by him while participating in the performance of evidentiary and other procedural actions.

Article 94. Physical Evidence

1. Any object that can serve as a means of establishing the factual circumstances that are important for the proceedings shall be recognized as physical evidence, including:

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

2) Objects that have been the targets of the alleged criminal interference;

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

2. The objects indicated in Paragraph 1 of this Article shall be examined by the body conducting proceedings, shall be recognized as physical evidence by an appropriate decision, and shall be attached to the materials of the proceedings.

Article 95. Protocols of Evidentiary and Other Procedural Actions

1. The protocols of evidentiary actions are the documents specified by this Code and composed in writing, which reflect the circumstances that are significant to the proceedings as directly perceived by the body conducting proceedings or another due person specified by this Code during the performance of evidentiary actions.

2. The protocols of other procedural actions are the documents specified by this Code and composed in writing, which reflect the circumstances that are significant to the proceedings as directly perceived by the body conducting proceedings during the performance of other procedural actions, as well as the protocols on receiving an oral report on the crime, on entering a guilty plea, and the arrest protocols.

Article 96. Extra-Procedural Documents

1. The extra-procedural document is any record which has been made on a paper, magnetic, electronic, or other medium in the form of words, numbers, sketches, or other signs, which contains data on the facts that are significant for the proceedings, and has been developed outside the scope of the criminal proceedings in question.

2. The documents mentioned in Paragraph 1 of this Article shall be examined by the body conducting proceedings, as well as shall be recognized as extra-procedural documents by an appropriate decision, and be attached to the materials of the proceedings.

3. The video, audio and audio-visual recordings and other objective documents obtained as a result of the operative-intelligence activities performed upon the permission of the Court outside the scope of the criminal proceedings may be recognized as extra-procedural documents and be attached to the materials of the proceedings only in case, when the respective measure has been undertaken in order to prevent or suppress the alleged crime, or in order to identify the person that has allegedly committed the crime either at the moment of committing a crime or immediately afterwards.

4. The results of the verification or reverification performed outside the scope of the criminal proceedings, including of the own motion of the body conducting proceedings, may be recognized as extra-procedural documents and be attached to the materials of the proceedings, only in case, when the establishment of a circumstance having a significant value for the proceedings is objectively impossible without them.

5. If the document mentioned in Paragraph 1 of this Article has the features prescribed by Paragraph 1 of Article 94 of this Code, then it shall be recognized as physical evidence.

Article 97. Admissibility of Evidence and Restrictions upon the Use thereof

1. Evidence obtained during the proceedings, including the evidence submitted by the private participants in the proceedings, shall be deemed admissible unless otherwise established by a due process of law.

2. The data obtained in material violation of law, as well as the data obtained as a result of procedural actions performed on the basis of such data shall be recognized inadmissible and may not be used as evidence.

3. The data shall be deemed to have been obtained in material violation of law, if it has been obtained:

1) By a person who lacks the competence to conduct the criminal proceedings in question or to perform the respective evidentiary or other procedural action;

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

3) In violation of the procedure envisaged by this Code, if the consequences of such violation cannot be eliminated by proper performance of other evidentiary action;

4) From a person not having the status of the Accused during the performance of an investigative action, who in fact has been subjected to criminal prosecution without proper notification thereof;

5) From an unknown source;

6) Through the application of methods contradicting to contemporary science.

4. When obtaining evidence, those violations that have manifested themselves by infringement of the constitutional rights and freedoms of a human and citizen, or by violations of the principles of criminal proceedings, shall also be deemed as material violations.

5. The data obtained in a manner prescribed by law may not be used as evidence, if:

1) There is a reasonable doubt that they have been replaced or their features have been altered;

2) They have been obtained from a person, who is unable to correctly conceive, memorise and reproduce the circumstances to be established within the proceedings due to having a psychological or a mental or a physical health issue;

6. Testimony that has been given by the Accused in absence of the Defence Counsel may not be used as evidence, if the Accused recants it in the Court;

7. The information obtained as a result of undercover investigative action performed in violation of the requirements prescribed by law may not be used in the proving process.

8. The results of operative-intelligence activities performed in violation of the requirements prescribed by law may not serve as a basis for performing an evidentiary action.

9. The data obtained in violation of the requirements of law by the public participant in the proceedings may be used as evidence upon the motion of the Accused or his Defence Counsel or Legal Representative, provided that such violation has not infringed upon legitimate interests of other person. Such evidence may be used only for the benefit of the Accused in question.

10. The extra-procedural documents prescribed by Paragraph 3 of Article 96 of this Code, may not be used to substantiate the charges for minor or medium-gravity crimes. These extra-procedural documents may be used only in case, when they have been obtained maximum four months prior to the initiation of the criminal proceedings - to substantiate the charges for grave crimes, or eight months - to substantiate the charges for particularly grave crimes. For the crimes prescribed by Articles 133-154, Article 155, Article 308, Articles 418-421, Articles 423-425, Clause 1 of Paragraph 2 of Article 441 and Article 450 of the Criminal Code of the Republic of Armenia no limitation on the use of the extra-procedural documents shall be applied.

11. Inadmissibility of evidence and the possibility of using the data obtained in violation of law in the case prescribed by Paragraph 9 of this Article shall be established by a decision of the body conducting proceedings rendered of its own motion or upon the motion of an interested party to the proceedings.

12. The evidence declared inadmissible shall be kept in the materials of the proceedings.

CHAPTER 11. RETENTION AND DISPOSAL OF EVIDENCE

Article 98. Retention of Physical Evidence

1. With the exception of the cases prescribed by this Article, physical evidence shall be retained with the materials of the proceedings until the issue of the disposal thereof is resolved by a conclusive procedural act entered into legal force.

2. The physical evidence that are perishable or are a produce that is difficult to keep, or if the costs of the retention thereof are not reasonably justified, shall be returned to their lawful possessor, by a decision. If return to the lawful possessor is not possible, they shall be transferred for sale by the decision of the body conducting proceedings and in accordance with the procedure envisaged by the legislation of the Republic of Armenia. The proceeds of such sale shall be transferred to the deposit account of the body conducting proceedings with due notification of the lawful possessor thereof. The issue of disposal of these means shall be solved in a manner prescribed by Paragraph 1 of this Article.

3. If the physical evidence envisaged by Paragraph 2 of this Article have perished or become unusable (have lost their economic value), they shall be destroyed by the decision of the body conducting proceedings, and a protocol shall be composed thereof.

4. If prolonged retention of the physical evidence may pose a danger to human life, health or to the environment, then it shall be transferred for technological processing by the decision of the body conducting proceedings and in the procedure prescribed by the legislation of the Republic of Armenia, or, if it is impossible, shall be destroyed in accordance with the procedure envisaged by the legislation of the Republic of Armenia. A protocol shall be composed on the technological processing or destruction of physical evidence.

5. If the physical evidence may not be retained together with the materials of the proceedings due to its large volume or quantity or for other reasons, or the costs of its retention are not reasonably justified, then, by the decision of the body conducting proceedings it shall be:

1) Returned to the lawful possessor, provided that it cannot be detrimental to the proper proving;

2) Photographed or videotaped and, if possible, also sealed and retained at a place defined by the decision, or, upon the procedure prescribed by the legislation of the Republic of Armenia, given to the local self-government body for retention, and a document on the location of such physical evidence shall be attached to the materials of the proceedings;

3) Transferred for sale in the procedure specified by the legislation of the Republic of Armenia, the proceeds of which shall be transferred to the deposit account of the body conducting proceedings till the end of the time period envisaged by Paragraph 1 of this Article.

6. By the decision of the body conducting proceedings, the cash, securities or other valuables recognized as physical evidence shall be:

1) Returned to the lawful possessor, provided that it cannot be detrimental to the proper proving;

2) Transferred to the deposit account of the body conducting proceedings or transmitted to the bank or other credit organization for retention, if the individual features of the banknotes are not significant for proving;

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

7. The physical evidence that is the object of the bail shall be returned to the lawful possessor by the decision of the body conducting proceedings after the performance of the necessary evidentiary actions, provided that it cannot be detrimental to the proper proving.

8. If it is impossible to retain the physical evidence envisaged by this Article together with the materials of the proceedings, a sample of such physical evidence shall be attached to the materials of the proceedings, if possible.

9. If a dispute regarding a right over the physical evidence attached to the materials of the proceedings is to be examined within the civil procedure, such object shall be retained with the materials of the proceedings until the completion of the proceedings in the civil case.

Article 99. Retention of Documents

1. The document shall be kept with the materials of the proceedings during the whole period of their retention.

2. If the lawful possessor needs a document attached to the materials of the proceedings for the purposes of current records, reporting or other legitimate purpose, then the body conducting proceedings, within three days upon the receipt of such a request, shall temporarily provide such document to him or allow to make a copy thereof.

3. After the entry into legal force of the conclusive procedural act, the originals of the documents present in the materials of the proceedings shall be transferred to the interested persons, upon their request, whereas the copies thereof shall be kept in the materials of the proceedings.

Article 100. Disposal of Non-Documentary Physical Evidence

1. The non-documentary physical evidence shall be disposed of pursuant to the following rules:

1) The instruments of a crime committed with intent, which belong to the Accused, shall be confiscated or transferred to the competent institution or destroyed, and the instruments of a crime committed by negligence shall be returned to the owner;

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

3) The objects that are of no value shall be destroyed, and in case of a motion by the interested person, given to him;

4) Cash and other property having value, which are the direct proceeds of a crime, shall be returned to the bona-fide owner or, if they do not have a bona-fide owner or their owner is unknown, they shall be directed to the compensation of the damage caused as a result of the crime or to the compensation of the costs of proceedings, and in case of the absence of such a necessity, they shall be confiscated;

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

2. Within the proceedings in relation to particularly grave crimes and the crimes against life, the physical evidence shall not be subject to destruction.

CHAPTER 12. THE PROVING

Article 101. The Proving

1. The proving is the collection, verification and assessment of evidence for the purpose of confirming or rebutting the factual circumstances subject to proving as provided for by this Code, as well as 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 thereof (time, place, manner, etc.);

2) The connection of the Accused to the incident;

3) The features of the alleged crime prescribed by criminal law;

4) The guilt of the Accused in committing the alleged act;

5) The circumstances mitigating and aggravating the criminal liability or punishment;

6) The circumstances characterizing the Accused as a person;

7) The damage inflicted by the alleged crime;

8) The circumstances allowing the person to be exempted from criminal liability or punishment;

9) The circumstances by which the person substantiates his property claims during the proceedings;

10) The circumstances by which a participant in the proceedings or another person substantiates his claims.

2. For certain types of proceedings specified by this Code a different scope of circumstances subject to proving may be defined.

Article 103. Collection of Evidence

1. Evidence shall be collected within the course of the criminal proceedings by means of performance of the evidentiary actions prescribed by this Code, as well as, in cases and in a manner prescribed by the international treaties of the Republic of Armenia, through the performance of respective actions by the authorized bodies of a foreign state.

Article 104. Verification of Evidence

1. Evidence collected during the criminal proceedings shall be subject to proper verification by means of analysing the form and the content of the obtained evidence, combining it with other evidence, collecting new evidence, and identifying the sources of obtaining the evidence.

Article 105. Assessment of Evidence

1. Each item of evidence shall be subject to assessment from the perspective of its relevance, admissibility, and credibility, whereas the totality of all the evidence - from the perspective of its sufficiency for rendering a grounded conclusive procedural act.

2. The Investigator, the Prosecutor, and the Judge, guided by the criminal procedure legislation, including by the relevant rules on the standards of proof, shall assess the evidence by their inner belief based on the proper examination and analysis thereof.

3. No data shall have the force of an *a priori* credible evidence. The Judge, as well as the Investigator and the Prosecutor shall not manifest prejudice toward the evidence and shall not attach some of them more or less significance in comparison to the others, until they are assessed within the framework of a due process of law.

Article 106. Legal Presumption of Facts

1. The following shall be deemed proven, unless proven otherwise within the course of the criminal proceedings:

1) The commonly known fact;

2) The truthfulness of the universally recognized methods in contemporary science, technology, arts, crafts, or other fields;

3) The fact that has been known or should have been known to the person in connection with his professional or official duties as defined by a normative act or a contract;

4) The fact that has been known or should have been known to the Accused as a circumstance of his exclusive awareness.

2. If the participant in the proceedings challenges the credibility of the facts envisaged by Paragraph 1 of this Article, he shall bear the burden of proving otherwise.

Article 107. Circumstances Established by Certain Evidence

1. Within the criminal proceedings, the following circumstances may be established only by means of obtaining and examining in advance the following evidence:

1) The cause of death, the nature or gravity of the damage inflicted upon the health - by a conclusion of a Forensic Medical Expert;

2) The inability of the person, due to having a mental health issue, to comprehend the nature, significance, and injuriousness 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 the Witness or the Victim to correctly perceive, memorize or reproduce the circumstances that are significant to the proceedings - by a conclusion of a Forensic Psychiatric or a Forensic Psychological Expert;

4) If it is significant for 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 Forensic Medical and Forensic Psychological Experts;

5) The former conviction of the Accused and the fact of imposition of a certain punishment upon him - by a copy of the respective judgment or, in case of its absence, by an appropriate statement issued by the competent state body.

SECTION 4. COMPULSORY MEASURES

CHAPTER 13. ARREST

Article 108. Types of Arrest and Calculation of the Time Period thereof

1. Arrest may be applied:

1) In case of the existence of an immediately arisen reasonable suspicion on having committed a crime;

2) For bringing the Accused who is at large before the Court;

3) In relation to the Accused who has violated the conditions of a restraint measure;

2. A person shall be deemed arrested from the moment of his *de facto* deprivation of liberty. The time period of the arrest envisaged by this Code shall be calculated from the same moment.

3. Persons arrested on the grounds envisaged by Clauses 1 and 3 of Paragraph 1 of this Article shall be held in places for holding the arrestees. The procedure and terms for holding the arrestees shall be defined by the legislation of the Republic of Armenia.

Article 109. Arrest in Case of an Immediately Arisen Reasonable Suspicion on Having Committed a Crime

1. A person may be arrested in case of an immediately arisen reasonable suspicion on having committed a crime if:

1) He has been caught during or immediately after having committed the alleged crime;

2) An eyewitness directly points at this person as the perpetrator of an act prescribed by the criminal law;

3) Obvious traces showing his connection to an act prescribed by the criminal law have been found on the respective person, or his clothes, or other objects used by him, or by him or at his home, including in his vehicle;

4) There are other grounds confirming his connection to the commission of the crime and, at the same time, he has tried to abscond from the incident scene or from the

body conducting criminal proceedings or he does not have a place of permanent residence or his identity has not been established.

2. Immediately after bringing the person arrested on the ground envisaged by Paragraph 1 of this Article before the Inquiry Body or before the body that has the authority to conduct the proceedings, the person who has performed the arrest shall compose a protocol on arresting the person.

3. The protocol shall specify:

1) The Arrested Person's name, surname, patronymic, day, month, and year of birth, registration and/or actual residence address;

2) The year, month, day, hour, minute, place, conditions of, the reasons and grounds for *de-facto* deprivation of liberty of the person;

3) The name, surname, position and rank of the official who has performed the arrest;

4) The title and description of the objects and documents taken from the person as a result of the personal search conducted at the moment of his *de-facto* deprivation of liberty or after bringing him before the competent body;

5) The injuries visible on the body or on the clothes of the Arrested Person, if they exist, as well as his *prima facie* physical and mental state;

6) The statements made by the Arrested Person,

7) The year, month, day, hour and minute of bringing the Arrested Person before the competent body and those of composing the protocol.

4. The protocol shall be signed by the person who has performed the arrest and by the Arrested Person. If the Arrested Person refuses to sign, the fact of such refusal, as well as the reasons therefor shall be documented in the protocol. The copy of the protocol shall be served upon the Arrested Person against his signature.

5. Promptly, but no later than within six hours upon *de-facto* deprivation of liberty in a manner prescribed by this Article, a decision on arresting or releasing him, as well as the list of rights and obligations of the Accused prescribed by this Code shall be served upon the Arrested Person. The arrest decision shall specify the year, month, day,

hour, minute and the place of composing it, the information on the Arrested Person, the factual circumstances of the act attributed to him and the grounds for the arrest.

6. The arrest protocol shall be attached to the arrest decision as an integral part thereof. The copies of the arrest decision and the arrest protocol shall be sent promptly to the Supervising Prosecutor.

7. The competent person who, upon the procedure prescribed by this Article, has rendered an arrest decision, shall be obliged to undertake the measures necessary for the care of minors or disabled persons under the care of the Arrested Person or for preserving the property of the Arrested Person.

8. The arrest performed in accordance with the procedure specified by this Article may last no longer than 72 hours. However, the charges must be brought against the Arrested Person, and the Accused shall be taken to the Court for resolving the issue of application of the respective restraint measure in relation to him, no later than within 60 hours from the moment of being arrested.

9. If, by a court decision, detention is not applied in relation to the Arrested Person within 72 hours from the moment of the arrest, he shall be subject to immediate release. When examining the issue of detention, the Court shall also verify the lawfulness of the arrest.

10. Within the meaning of this Article, the designated officer of the Police of the Republic of Armenia or of other body having the respective authority based on law shall be construed as the person performing arrest.

Article 110. Rights and Obligations of a Person Arrested on the Basis of an Immediately Arisen Reasonable Suspicion on Having Committed a Crime; Conditions and Safeguards for the Implementation thereof

1. The person arrested on the ground envisaged by Clause 1 of Paragraph 1 of Article 108 of this Code shall acquire all the relevant rights and obligations of the Accused provided for by this Code from the moment of receiving the arrest decision or, if such

decision has not been served upon him during the time period prescribed by this Code - from the moment of expiration of six hours after his *de-facto* deprivation of liberty.

2. Prior to acquiring the relevant rights of the Accused, the Arrested Person shall have the following rights:

1) To know the reason for depriving him of liberty;

2) To remain silent;

3) To inform a person of his choice about his whereabouts;

4) To communicate and meet with an Attorney;

5) To undergo a medical examination, upon his request.

3. The rights prescribed by Clauses 3 to 5 of Paragraph 2 of this Article shall arise from the moment of entry into the administrative building of the Inquiry Body or of the body that has the authority to conduct the proceedings, but no later, than from the moment of expiration of 3 hours after *de-facto* deprivation of liberty of a person.

4. Prior to acquiring the relevant obligations of the Accused, the Arrested Person shall have the following responsibilities:

1) To abide by the instructions of the person performing the arrest, those of the Inquiry Body, and the body conducting proceedings;

2) To undergo a personal search;

3) To undergo a medical examination and fingerprinting, as well as to be photographed, and to provide samples envisaged by this Code for expert examination.

5. In order to ensure the implementation of the rights envisaged by Paragraph 2 of this Article:

1) The person performing the arrest shall, immediately after the arrest, be obliged to explain orally to the Arrested Person the reason for depriving him of his liberty, as well as his minimum rights and obligations;

2) The Inquiry Body or the body conducting proceedings, promptly after bringing the Arrested Person to the administrative building of the Inquiry Body or of the body that has the authority to conduct the proceedings, shall be obliged to provide the Arrested Person with the list of his rights and obligations against his signature, to ensure that the person of the Arrested Person's choice is informed about his whereabouts and an

Attorney is invited, to guarantee, upon the request of the Arrested Person, his medical examination, and to refrain from hindering the Attorney's communication and meeting with the Arrested Person.

6. The exercise of the minimum right envisaged by Clause 3 of Paragraph 2 of this Article may be postponed, upon the consent of the superior of the body conducting proceedings, by a maximum period of twelve hours, if there are substantive reasons to believe that the immediate exercise of such right may hinder prevention or suppression of the grave or particularly grave crime or lead to destruction or damage of the evidence necessary for solving a grave or particularly grave crime.

7. The Arrested Person shall be promptly notified in writing about the postponement of the exercise of the minimum right envisaged by Clause 3 of Paragraph 2 of this Article, as well as a separate decision shall be composed stating the reasons for postponing the implementation of such right.

Article 111. Arrest for Bringing the Accused who is at Large before the Court

1. In case of necessity to apply detention as a restraint measure in relation to the Accused who is at large, the Investigator shall be authorized to render a decision on arresting the Accused. The decision shall specify the year, month and day of composing it, the information on the Accused, the ground and the reasons for the arrest, as well as the Inquiry Body that is instructed to perform the arrest.

2. Prior to arresting the Accused, the Inquiry Officer shall serve upon him the copy of the arrest decision against the signature. Immediately after *de-facto* deprivation of liberty, the Accused shall be brought before the Investigator. The fact of bringing the Accused before the Investigator shall be documented in the protocol on arresting the person. The protocol shall specify the name, surname and patronymic of the Accused, as well as the year, month, day, hour, minute, place, conditions of and the grounds for his *de facto* deprivation of liberty, the name, surname, position and rank of the Inquiry Officer that has performed the arrest, the statements made by the arrested Accused, and the year,

month, day, hour and minute of bringing the arrested Accused before the Investigator and of composing the protocol.

3. The arrest protocol shall be attached to the arrest decision as the integral part thereof. The copies of the arrest decision and the arrest protocol shall be promptly sent to the Supervising Prosecutor.

4. The arrest performed on the ground envisaged by Paragraph 1 of this Article may not last for more than 24 hours. The Accused who is arrested on this ground shall be brought to the Court no later than within 12 hours from the moment of the arrest. Otherwise, the person must be released.

5. If the Accused arrested on the ground envisaged by Paragraph 1 of this Article is not detained by a court decision within 24 hours from the moment of the arrest, he shall be subject to an immediate release. When examining the issue of detention, the Court shall also verify the lawfulness of the arrest.

Article 112. Arrest of the Accused who Violated the Terms of the Restraint Measure

1. If the Accused violates the terms of the restraint measure applied to him, the Investigator shall be authorized to render a decision on arresting him and, at the same time, to submit a motion to the Court on detaining the Accused. The decision shall specify the year, month and day of composing it, the information on the Accused, the ground and the reasons for the arrest, as well as the Inquiry Body, which is instructed to perform the arrest.

2. The Accused may be arrested on the ground specified by this Article only if the provisions of this Code allow application of detention as a restraint measure in relation to him.

3. Prior to arresting the Accused, the Inquiry Officer shall give him the copy of the arrest decision against the signature. Immediately upon *de-facto* deprivation of liberty, the Accused shall be brought before the Investigator. The fact of bringing the Accused before the Investigator shall be documented in the protocol on arresting the person. The protocol shall specify the name, surname, and patronymic of the Accused, the year, month, day, hour, minute, place, conditions of and the grounds for his *de facto* deprivation of

liberty, the name, surname, position, and rank of the Inquiry Officer that has performed the arrest, the statements made by the arrested Accused, and the year, month, day, hour, and minute of bringing the arrested Accused before the Investigator and of composing the protocol.

4. The arrest protocol shall be attached to the arrest decision as the integral part thereof. The copies of the arrest decision and the arrest protocol shall be promptly sent to the Supervising Prosecutor.

5. The arrest performed on the ground envisaged by Paragraph 1 of this Article may not last for more than 24 hours. The Accused who is arrested on this ground shall be brought to the Court no later than within 12 hours from the moment of the arrest. Otherwise, the person must be released.

6. If the Accused arrested on the ground envisaged by Paragraph 1 of this Article is not detained by a court decision within 24 hours from the moment of the arrest, he shall be subject to an immediate release. When examining the issue of detention, the Court shall also verify the lawfulness of the arrest.

Article 113. Additional Rights of the Arrested Foreign Citizens and Stateless Persons

1. In case of arresting a foreign citizen or a stateless person on the ground envisaged by Clause 1 of Paragraph 1 of Article 108 of this Code, the body conducting proceedings shall, within 24 hours, inform, through diplomatic channels, the state of the citizenship of the person held in custody or, if the latter does not have any citizenship, the state of his permanent residence, about the grounds for and the place of holding that person in custody, except for the case, where the Arrested Person is an asylum seeker or a refugee. The Arrested Person shall be informed on this within a short period of time.

2. If the competent representative of the state of the citizenship or of the permanent residence of the Arrested Person has expressed a desire to communicate or meet with the Arrested Person, the body conducting proceedings shall be obliged to ensure the realization thereof, except for the case, where the Arrested Person is an asylum seeker or a refugee.

3. The 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 the Arrested Person

1. The competent person shall release the Arrested Person, 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 to exist;

3) The person has been deprived of liberty with substantive violation of the arrest procedure;

4) The maximum time period specified by this Code for the arrest has expired.

2. The copy of the decision of the Investigator or the Prosecutor on releasing the Arrested Person shall be promptly served upon the released person. The decision shall specify the ground for and the time (year, month, day, hour and minute) of releasing the person.

3. If the Court rejects the motion to detain the arrested Accused, the Accused shall be immediately released by an order of the Court. The copy of the Court's decision, specifying the ground for and the time (year, month, day, hour and minute) of releasing the person shall be promptly served upon the Accused.

4. In the case envisaged by Clause 4 of Paragraph 1 of this Article, if the person has not been released by the decision of the Investigator or the Prosecutor, the Arrested Person shall be released by the head of the administration of the place for holding the arrested persons. In such case, the head of the administration of the place for holding the arrested persons shall serve upon such person a statement on releasing the Arrested Person, which shall specify the ground for and the time (year, month, day, hour, and minute) of releasing the person. The copy of such statement shall be sent to the Investigator and to the Supervising Prosecutor.

5. The released person who has been arrested on the ground envisaged by Clause 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. Types of Restraint Measures

1. Restraint measures are the detention and the alternative restraint measures.

2. The alternative restraint measures shall be the following:

1) House arrest;

2) Administrative supervision;

3) Bail;

4) Suspension from office;

5) Prohibition to leave the country;

6) Guarantee;

7) Educational supervision;

8) Military supervision.

Article 116. Lawfulness of Application of 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 the Accused; or

2) To prevent the commission of a crime by the Accused; or

3) To ensure the fulfilment by the Accused of the obligations placed on him by this Code or by a court decision.

3. When choosing the type of a restraint measure, all the possible circumstances ensuring or hindering the proper conduct of the Accused shall be taken into consideration.

4. The copy of the decision on application of a restraint measure, if possible, shall be promptly served upon the Accused.

Article 117. Substituting or Terminating a Restraint Measure

1. If the terms of lawfulness of a restraint measure have changed or ceased to exist during its effect, the body conducting criminal proceedings shall, within the scope of its authority, render a decision on substituting or terminating the restraint measure.

2. The restraint measure applied by the Court during the pre-trial proceedings can be substituted or terminated by the Supervising Prosecutor, and the restraint measure applied upon the consent of the Supervising Prosecutor - by the Investigator upon the consent of the Supervising Prosecutor.

3. If the Accused violates the terms of a restraint measure applied in relation to him, the body conducting criminal proceedings shall, within the scope of its authority, take measures for application of other more appropriate restraint measure, if necessary.

4. The decision on substituting or terminating a restraint measure shall be promptly transmitted the body or the official ensuring the application of the restraint measure, and the copy of such decision shall be served upon the person in relation to whom the restraint measure is being applied. The copy of the decision of the Investigator on substituting or terminating a restraint measure, shall be provided also to the Supervising Prosecutor.

5. If, based on the results of consideration of an appeal submitted against application of the restraint measure, the applied restraint measure has been terminated, then that restraint measure or other more appropriate one may be applied in the same proceedings only if a new circumstance exists.

Article 118. Peculiarities of Lawfulness of Detention

1. Detention is the deprivation of liberty of the Accused by a court decision in cases and procedure provided for by law, for the term specified by law and that court decision.

2. Detention may be applied only, when application of alternative restraint measures is not sufficient for ensuring the compliance with the requirements prescribed by Paragraph 2 of Article 116 of this Code.

3. If no punishment connected with deprivation of liberty is provided for the crime attributed to the Accused, then detention may be applied only in case of violation by the Accused of the terms of the alternative restraint measure applied in relation to him;

4. Detention may be applied only, when, based on the sufficient totality of factual circumstances, the Investigator or the Prosecutor have substantiated and the Court has confirmed in a reasoned manner the respective conditions of lawfulness prescribed by Article 116 of this Code. For application of detention during the court proceedings, the reasoned confirmation of such conditions by the Court shall be sufficient.

5. When extending the period of detention, the due diligence exerted by the body conducting proceedings for identification of circumstances significant for the proceedings, as well as the necessity of continuing the criminal prosecution against the Accused in question must be substantiated before the Court.

6. The right of the Accused to communicate with others may be restricted by the decision of the Court on applying detention or extending the detention period, if by a sufficient totality of factual circumstances, the need for application of such restriction, including the conditions regarding the term and the scope of the persons, have been substantiated by the Investigator or the Prosecutor, and confirmed in a reasoned manner by the Court.

Article 119. Detention Period

1. A person may be held in detention as long as it is necessary to ensure the normal course of proceedings and as long as the grounds for holding a person in detention continue to exist, but in any event, such period shall not exceed the maximum time periods for holding in detention as defined by this Article.

2. During the pre-trial proceedings, detention may be applied or the period for holding in detention may be prolonged each time for a period not longer than two months, respecting the maximum periods for holding in detention during the pre-trial proceedings as defined by this Article.

3. The maximum period for holding in detention during the pre-trial proceedings shall be:

1) Four months - in case of being charged with a minor crime;

2) Six months - in case of being charged with a medium-gravity crime;

3) Ten months - in case of being charged with a grave crime;

4) Twelve months - in case of being charged with a particularly grave crime.

4. During the court proceedings, detention may be applied or the period thereof may be prolonged each time for a period not longer than three months.

5. The total duration of holding in detention may not exceed the maximum period of the punishment in the form of imprisonment envisaged for the crime attributed to the Accused.

6. The period of holding the Accused in detention shall be calculated from the moment of his *de-facto* deprivation of liberty. The calculated period of detention shall also include the period, when the Accused, pursuant to the court decision, was at a medical institution for performing an expert examination or when medical supervision was applied to him as a security measure.

7. The calculated total period for holding in detention shall not include the period when the person was in custody within the territory of another state as necessitated by the transfer of the proceedings or extradition of the person.

Article 120. Release from Detention

1. The competent person shall release the Accused from detention if:

1) The ground or necessity for holding the person in detention has ceased to exist;

2) The criminal prosecution against the Accused has been terminated;

3) An acquitting verdict has been rendered in relation to the Accused;

4) The Court has imposed a punishment not connected with deprivation of liberty upon the Accused;

5) The detention period set by the Court has expired and no court decision on its prolongation has been obtained;

6) The maximum period envisaged by this Code for holding a person in detention has expired;

7) Pursuant to the procedure prescribed by this Code the detention as a restraint measure has been substituted or terminated.

2. In cases provided for by Clauses 2 to 4 of Paragraph 1 of this Article, the Court shall release the Accused directly in the courtroom.

3. In cases provided for by Clauses 5 to 7 of Paragraph 1 of this Article, the head of the administration of the 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 under the same charges, unless new substantive circumstances have been discovered which were unknown to the body conducting criminal proceedings at the time of releasing the Accused from detention.

2. If a person released from detention is re-detained, then the period during which he has been in detention before his release shall be calculated when determining the maximum permissible period for holding him in detention.

Article 122. Peculiarities of Lawfulness of the Alternative Restraint Measures

1. Alternative restraint measures may be applied both separately and in conjunction, if it is possible to ensure simultaneous compliance with the terms thereof.

2. The restraint measures envisaged by Clauses 1 and 2 of Paragraph 2 of Article 115 of this Code may be applied only by the Court. During the court proceedings, the Court shall be authorized to apply also the alternative restraint measures envisaged by Clauses 3 to 8 of Paragraph 2 of Article 115.

3. During the pre-trial proceedings, the alternative restraint measures envisaged by Clauses 3 to 8 of Paragraph 2 of Article 115 of this Code may be applied by:

1) The Investigator - prior to transmitting the indictment to the Prosecutor along with the materials of the proceedings;

2) The Supervising Prosecutor - from the moment of receiving the indictment along with the materials of the proceedings from the Investigator till transmitting them to the Court;

3) The Court - while resolving the motion on applying a restraint measure or prolonging the period of a restraint measure applied.

4. The Investigator may apply the alternative restraint measures envisaged by Clauses 3 and 4 of Paragraph 2 of Article 115 of this Code exclusively upon the consent of the Supervising Prosecutor.

5. The alternative restraint measures may be applied, if a reasonable assumption in relation to the circumstances envisaged by Paragraph 2 of Article 116 of this Code exists.

Article 123. House Arrest

1. House arrest is such a restriction of liberty of the Accused, during which he is obliged not to leave the area of residence specified in the court decision.

2. The court decision may also prohibit the Accused to:

1) Have correspondence, telephone conversations, use other means of communication, including mail piece;

2) Have contacts with certain persons or host other persons at his place of residence.

3. The court decision to apply house arrest shall specify the specific restrictions that the Accused is subjected to, as well as the competent body that is instructed to exercise control over the compliance with such restrictions. The prohibition on having telephone conversations shall not apply to the cases of calling an ambulance, law-enforcement bodies, or rescue service in emergency situations, as well as to the case of contacting the body exercising control. The Accused shall promptly inform the body exercising control thereof.

4. By a court decision, the supervision over the conduct of the Accused shall be performed through the use of special electronic means specified by the legislation of the Republic of Armenia. The Accused shall be obliged to wear on him the means of electronic monitoring constantly, refrain from damaging them, as well as to respond to the supervision signals of the competent body.

5. The provisions envisaged by this Code for detention shall apply to the procedure for application, the periods of and the appeals against the house arrest.

6. One day of house arrest shall be equal to one day of detention.

Article 124. Administrative Supervision

1. Administrative supervision is the restriction of freedom of movement and activities of the Accused, in the event of which he shall be obliged to register himself at the competent body specified in the court decision no more frequently than three times a week.

2. The Court decision may also prohibit the Accused to:

1) Change the place, i.e., the community or, in case of the city of Yerevan, the administrative district of his permanent or temporary residence - without permission of the body conducting proceedings;

2) Visit certain places specified in the decision;

3) Communicate to certain persons;

4) Leave his residence area during specific hours of the day, however, no more than for 12 hours.

3. When imposing the prohibitions envisaged by Paragraph 2 of this Article, the state of health of the Accused, as well as his work or education conditions shall be taken into account.

4. The copy of the decision on applying administrative supervision to the Accused shall be sent to the competent body specified by the Court for enforcement.

5. The competent body shall promptly register the Accused and inform the body conducting proceedings about accepting him under supervision.

6. By a court decision, supervision over the conduct of the Accused shall be performed through the use of special electronic means specified by the legislation of the Republic of Armenia. The Accused shall be obliged to wear on him such means of electronic monitoring constantly, refrain from damaging them, as well as to respond to the supervision signals of the competent body.

7. The provisions envisaged by this Code for detention shall apply to the procedure for application of and the appeals against the administrative supervision.

Article 125. Bail

1. Bail is an amount of money defined by a decision of the competent body, which, for ensuring the lawful conduct of the Accused, shall be deposited with the bank or other credit organization specified in the respective decision for safekeeping in the form of Armenian Dram, movable property, securities, or other valuables. Real estate may be accepted as bail, if the decision to apply bail specifically indicates such possibility.

2. 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 pledger shall bear the burden of proving the value of the bail.

3. Bail may be paid in by the Accused or any other natural or legal person. If bail is paid in by another person, the Court shall explain to him the substance of the charges brought against the Accused, as well as the potential consequences arising in case of manifestation of unlawful conduct by the Accused.

4. The pledger shall present a document certifying that bail has been paid in, which shall be attached to the materials of the proceedings. The bail is considered as applied from the moment of presenting the document certifying that bail has been paid in to the body conducting proceedings.

5. If the Accused has absconded from the body conducting proceedings or has regularly failed to appear upon the invitation of the body conducting proceedings, or has substantially hindered the proceedings, then the Supervising Prosecutor shall render a decision on turning the bail into the revenue of the state, and shall, within a three-day period, send a copy thereof to the Accused and to the person who paid in the bail, explaining to them the procedure envisaged by Articles 299 to 301 of this Code for appealing such decision. If movable property or real estate has been accepted as bail, then, the part of the amount exceeding the amount of bail which remains once such property is sold based on the ground of violation of the terms of the restraint measure, shall be subject to return.

6. When one of the grounds envisaged by Paragraph 5 of this Article exists, in judicial proceedings the decision on turning the bail into the revenue of the state shall be rendered by the Court. Such decision may be appealed upon the procedure of special review prescribed by this Code.

7. Bail shall be returned to the pledger in all the cases in which the violations prescribed by Paragraph 5 of this Article have not been proven or bail as a restraint measure has been terminated or substituted. The decision to return the bail shall be adopted at the same time when the decision to terminate or to substitute the respective restraint measure is rendered.

Article 126. Suspension from Office

1. Suspension from office is the temporary interruption of the exercise of the powers or of the working activity of the Accused who is in public service, as well as is employed by an employment contract.

2. The Accused may be suspended from office by a decision of the competent body, if there are sufficient grounds to assume that in case of remaining in office, he will obstruct the course of the proceedings or will engage in criminal conduct.

3. The Accused shall be suspended from office from the moment of rendering the respective decision. The decision on suspension from office shall be promptly sent to the administration of the workplace of the Accused, and the copy thereof shall be served upon the Accused.

Article 127. Prohibition to Leave the Country

1. If there are sufficient grounds to assume that the Accused may abscond by using a personal identification document, the competent body may render a decision on prohibiting him to leave the Republic of Armenia.

2. The decision on prohibiting to leave the Republic of Armenia shall be promptly sent to the authorized body that performs border control.

Article 128. Guarantee

1. In order to guarantee that the Accused appears upon the invitation of the body conducting proceedings and complies with his other obligations, at least two persons who enjoy confidence shall undertake a written commitment by their authority.

2. The person willing to become a guarantor shall apply in writing to the competent body which such a request. The competent body shall familiarize the applicant

with the substance of the charges brought against the Accused, explain the rights and obligations of the guarantor to him, and warn him against the liability provided for by law for the guarantor for his failure to fulfil obligations imposed on him. Thereafter, the applicant shall be given an opportunity to confirm his request or withdraw it. A protocol shall be composed on the performance of the aforementioned actions, which shall be signed by the competent body and the guarantor.

3. In case of application of guarantee as a restraint measure, the guarantor's name, surname and other relevant personal data shall be specified in the decision of the competent body. The copy of the decision shall be immediately served upon the guarantor.

Article 129. Educational Supervision

1. In order to ensure that the minor Accused appears upon the invitation of the body conducting proceedings and complies with his other obligations his supervision may be assigned to the parent of the minor Accused, his adoptive parent, tutor or the administration of the closed institution for children, where the minor Accused is placed.

2. The Parent, adoptive parent, and tutor shall have the right to refuse to exercise educational supervision over the minor Accused.

3. In case of application of educational supervision as a restraint measure in relation to a minor, the body conducting proceedings shall familiarize his parent, adoptive parent, tutor, the representative of the administration of the closed institution for children, with the rendered decision and shall provide them with the copy of such decision, familiarize them with the substance of the charges, explain their rights, obligations, and responsibility to them. A protocol shall be composed on the performance of the aforementioned actions, which shall be signed by the competent body and the person who has undertaken the educational supervision.

Article 130. Military Supervision

1. In order to ensure that the Accused who is in military service, appears upon the invitation of the body conducting proceedings and complies with his other obligations, his supervision may be assigned to the commander of a military unit or detachment.

2. In case of application of military supervision as a restraint measure in relation to the Accused, the body conducting proceedings shall familiarize the command representative with the respective decision and provide him with the copy thereof, familiarize him with the substance of the charges, and explain his rights, obligations, and responsibility to him. A protocol shall be composed on the performance of the aforementioned actions, which shall be signed by the competent body and the command representative.

3. Within the course of exercising supervision over the Accused, the requirements provided for by the legislation of the Republic of Armenia shall apply.

CHAPTER 15. ATTACHMENT OF PROPERTY

Article 131. Purpose of and Grounds for Attachment of Property

1. Attachment of property shall be applied in order to secure the compensation of the possible damage caused by the alleged crime or possible costs of proceedings, as well as the possible confiscation or forfeiture of the property.

2. Property may be attached, if any of the following grounds exists:

1) It has been substantiated by the preponderance of evidence that such property has directly or indirectly proceeded from or has been obtained as a result of a crime, or is the income or any other gain obtained from the use of such property;

2) It has been substantiated by the preponderance of evidence that such property has been an instrument or means used for or meant to be used for commission of a crime;

3) It has been substantiated by the preponderance of evidence that such property is a property designated for financing terrorist activity as prescribed by Article 310 of the Criminal Code of the Republic of Armenia, or an income or any other gain obtained from the use of such property;

4) It has been substantiated by the preponderance of evidence that such property is a smuggling object transferred across the border of the Republic of Armenia via commission of a smuggling act prescribed by Articles 291, 292, 340 or 399 of the Criminal Code of the Republic of Armenia;

5) There is a reasonable assumption that such property may be alienated, concealed, damaged, destroyed, or consumed.

3. In case of absence of the property envisaged by Clauses 1 to 4 of Paragraph 2 of this Article, the property equivalent to it may be attached.

Article 132. Property Subject to Attachment

1. The property of any person may be attached on the grounds envisaged by Clauses 1 to 4 of Paragraph 2 of Article 131 and by Paragraph 3 of Article 131 of this Code, whereas the property of the Accused or that of the person bearing pecuniary liability for the actions of the Accused, including the jointly owned property, regardless of the type of property and its possessor, may be attached based on the ground envisaged by Clause 5 of Paragraph 2 of Article 131 of this Code. In case of a joint shared ownership, only the respective share may be attached.

2. When determining the share of property to be attached for each of the several Accused persons, or each of the persons bearing pecuniary liability for their actions, the body conducting proceedings shall take into consideration the role and degree of participation of each of the Accused persons in the alleged crime.

3. The following shall not be subject to attachment:

1) Property that may not be the subject to forfeiture or confiscation pursuant to law;

2) Property recognized as physical evidence.

Article 133. Procedure for Attachment of Property

1. Within the course of preliminary investigation, the property shall be attached by a decision of the Investigator. Such decision and the materials substantiating it shall be submitted to the competent Court for approval within a three-day period. During the court proceedings, the property shall be attached by a decision of the Court.

2. The decision shall specify the property subject to attachment, its owner and possessor, the location of the property, as well as the property value that is sufficient for securing the purpose of the attachment.

3. In case of *prima facie* existence of the grounds envisaged by Clauses 1 to 4 of Paragraph 2 of Article 131 and by Paragraph 3 of Article 131 of this Code, the Investigator shall promptly attach the respective property.

4. The Investigator shall, against signature, provide the owner or the possessor of the property with the decision on attachment of property and shall require to surrender the property subject to attachment.

5. Attachment of property based on a court decision shall be performed in accordance with the procedure envisaged by the Law on Compulsory Enforcement of Judicial Acts.

6. If adoption of a respective act by a state body or a legal person is required for attachment of property, then attachment of property shall be performed through the respective competent body or legal person.

7. The value of the property subject to attachment shall be determined by its market price, by an Expert involved for such purpose.

8. If the decision does not specify the property subject to attachment, then the owner or the possessor of the property who is present during the attachment shall be entitled to choose the property that is sufficient for complying with the requirements of the decision.

9. A protocol shall be composed on the fact of attachment of property, which shall specify the whole property that has been attached, including the property taken or left for preservation, with exact indication of the name, quantity, weight, state of depletion, value, other individual features, as well as the statements of the persons present during the attachment.

10. The copy of the protocol shall be served upon the owner or the possessor of the attached property against signature or, in case of his absence, upon any of his adult family members or the representative of the respective local self-government body. In case of attachment of property owned by or in possession of a legal person, the copy of the protocol shall be served upon its representative against signature.

Article 134. Preservation of the Attached Property

1. The attached property, with the exception of real estate and voluminous objects, shall be seized.

2. The precious metals and stones, foreign currency and securities exceeding the value of two hundred-fold of minimum wage shall be transferred to the Treasury of the Republic of Armenia for retention, whereas the Armenian Dram shall be paid in the deposit account of the Court that will have jurisdiction over the proceedings. The other objects that have been taken shall be sealed and kept with the body that has decided to attach the property, or shall be transferred to the representative of the local self-government body for retention.

3. The voluminous property that has been attached but not taken shall be sealed and left with the owner or the possessor of the property or their adult family member for preservation, whereas in case of impossibility thereof, shall be transferred to the competent state body upon the procedure prescribed by the legislation of the Republic of Armenia. The person responsible for preservation of the property, shall be provided with an explanation regarding the liability provided for by law for wasting, alienating, hiding or illegally transferring such property to other person, in respect of which his signature shall be taken.

Article 135. Duration of the Attachment of Property

1. Attachment of property shall remain effective until the entry into legal force of the conclusive procedural act rendered in the proceedings in question. The Court, of its own motion or upon the motion of the Victim or another interested person, shall be authorized to maintain the attachment of property after the completion of the criminal proceedings as well, till the enforcement of the judicial act.

2. During the proceedings, by a decision of the Investigator approved by the Supervising Prosecutor or by a court decision, the attachment of property shall be lifted, if circumstances indicating the necessity of terminating the attachment of the property have emerged.

3. The attachment of the object of bail may be lifted for the purpose of its sale, based on the decision of the body conducting proceedings rendered upon the motion of the depositor of bail, if:

1) It is not a property proceeded from a crime;

2) It is not a property designated for financing terrorism;

3) It is not a property necessary for compensation of possible damage caused to the Victim by the alleged crime and in relation to which the right to ownership or to bail is disputed in judicial proceedings by third parties.

The bail depositor shall transfer to the Court deposit the funds that remain after complying with the requirements of the bail depositor and deducting the expenses related to the sale of property.

CHAPTER 16. COMPULSORY MEASURES APPLIED TO PERSONS WITH A MENTAL HEALTH ISSUE

Article 136. Types of Compulsory Measures Applied to Persons with a Mental Health Issue

1. The following compulsory measures may be applied to persons with a mental health issue:

1) Placement in a medical institution for performing an expert examination;

2) Security measures.

Article 137. Placement in a Medical Institution for Performing an Expert Examination

1. If there is a reasonable assumption of having a mental health issue, the Accused, by a court decision, may be placed in a medical institution for up to one month for performing a forensic psychological, forensic psychiatric or forensic medical expert examination, if he avoids undergoing expert examination or poses a threat to the public or himself.

2. Placement in a medical institution for an examination may be applied only in those cases, when, by a sufficient totality of factual circumstances, the need for the application of such compulsory measure has been substantiated by the Investigator or the Prosecutor, and confirmed by the Court in a reasoned manner. During the court proceedings, the reasoned confirmation by the Court on the need for application of this compulsory measure shall be sufficient.

3. The rules prescribed by this Code for the application of detention as a restraint measure shall apply *mutatis mutandis* to the compulsory measure of placement in a medical institution for performing an expert examination.

Article 138. Security Measures

1. The security measures shall be as follows:

1) Family supervision;

2) Medical supervision.

2. A security measure may be applied in relation to the Accused, as well as the person in relation to whom proceedings of application of a compulsory medical measure are being conducted.

Article 139. Family Supervision

1. Family supervision is transferring the person with a mental health issue to his relative or guardian for the purpose of ensuring his proper conduct. Family supervision is applied in relation to persons who do not pose a danger to the public.

2. The authorized body in the field of health care shall be notified of the application of family supervision.

3. The rules prescribed by this Code for the application of educational supervision as a restraint measure shall apply *mutatis mutandis* to family supervision.

Article 140. Medical Supervision

1. Medical supervision is keeping the person posing a danger to the public in a psychiatric institution, in order to ensure hospital supervision or treatment.

2. Medical supervision may be applied only in those cases, when, by a sufficient totality of factual circumstances, the need for application of such security measure has been substantiated by the Investigator or the Prosecutor, and has been confirmed by the Court in a reasoned manner. During the court proceedings, the reasoned confirmation by the Court on the need for application of medical supervision shall be sufficient.

3. The rules prescribed by this Code for the application of detention as a restraint measure shall apply *mutatis mutandis* to medical supervision.

CHAPTER 17. PROCEDURAL SANCTIONS

Article 141. Types of and Grounds for Imposing Procedural Sanctions

1. In the event of obstruction of the normal course of proceedings by a participant in the proceedings or other person by means of abuse of his rights or malicious non-fulfilment of his obligations, as well as by contempt of Court, the body conducting proceedings shall be authorized to impose a procedural sanction on such persons.

2. The procedural sanctions shall be the following:

1) Reprimand;

2) Restriction on the exercise of a right;

3) Removal from the courtroom;

4) Compulsory bringing before the body conducting proceedings;

5) Judicial fine;

6) Removal from the proceedings.

3. In case of the abuse of rights, only the procedural sanction envisaged by Clause 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 proceedings. A sanction imposed on a person shall be proportionate to the nature and consequences of his conduct.

5. The imposition of a procedural sanction shall not preclude the imposition of other liability envisaged by law on the sanctioned person.

Article 142. Reprimand

1. Reprimand is an order addressed to a participant in the proceedings or other person to manifest proper behaviour or to comply with the instructions of the authorized person during the performance of a certain procedural action or during a court session.

2. In pre-trial proceedings, the reprimand shall be given in writing. In court proceedings, it shall be given orally and incorporated in the protocol of the court session.

3. The failure to comply with the requirements of the reprimand may lead to imposition of another sanction envisaged by this Code. The body conducting proceedings shall duly inform the relevant person about such possibility, as well as about the consequences of imposing a more severe sanction every time the reprimand is issued.

Article 143. Restriction on the Exercise of a Right

1. Restriction on the exercise of a right is specifying, by an appropriate decision, temporal and quantitative terms for the exercise of certain rights, in case of regular abuse of these rights by a participant in the proceedings or the Witness.

2. The procedural sanction envisaged by this Article may be imposed only in case of regular abuse of the following rights:

1) Submitting a motion;

2) Seeking a recusal;

3) Submitting evidence for having them attached to the materials of the proceedings and examined;

4) Becoming familiarized with the materials of the proceedings and writing out any information therefrom;

5) Making an opening statement, a closing argument or a closing statement;

6) Waiving Defence Counsel;

7) Terminating the powers of the Defence Counsel.

3. Restriction on the exercise of a right may also be imposed in case of appearance of several Defence Counsels, Authorized Representatives, or Attorneys of the same person for a procedural action. In this case, the restriction on the exercise of a right

shall be in the form of giving an opportunity to participate in the particular procedural action not to all the Defence Counsels, Authorized Representatives, or Attorneys.

4. The imposition of the procedural sanction envisaged by this Article shall not rule out the very exercise of the respective right.

Article 144. Removal from the Courtroom

1. In case of the failure to comply with the requirements of the reprimand imposed during the court session, the Court may remove a participant in the court proceedings (except for the Prosecutor, the Attorney participating as a Defence Counsel or as an Authorized Representative, as well as the Witness who is testifying at the given moment) or another person present in the court session from the courtroom, until the completion of the given session or the court hearings.

2. The order 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 the person removed from the courtroom, the Court shall postpone the court hearings.

4. If the Accused is removed from the courtroom for the first and the second time, the proceedings shall be postponed. If the ground for removing the Accused from the courtroom envisaged by Paragraph 1 of this Article subsequently exists, the Court shall remove the Accused from the courtroom and continue the court session.

5. The Court shall provide the Accused removed from the courtroom with an opportunity to make a closing argument and a closing statement, and the Accused held in custody - also with an opportunity to participate in the session of the public announcement of the verdict or the judgment. If the ground specified in Paragraph 1 of this Article subsequently exists, the Court shall be authorized to remove the Accused from the courtroom again, continuing the court session.

6. In case of the failure to comply promptly and voluntarily with the order to remove from the courtroom, it shall be enforced in a compulsory manner, through the judicial bailiffs.

Article 145. Compulsory Bringing before the Body Conducting Proceedings

1. If the private participant in the proceedings (with the exception of an Attorney) as well as the Witness, the Expert or the Interpreter maliciously avoids to fulfil the obligations prescribed by this Code, the body conducting proceedings shall be authorized to render a decision on compulsory bringing in of the person for the purpose of securing such fulfilment.

2. The decision shall specify the year, month, and day of composing it, the data of the person subject to compulsory bringing in, the name of the competent body that is assigned with the performance of compulsory bringing in, and the ground and reasons therefor.

3. Prior to the compulsory bringing in of the person the copy of the decision shall be provided to him against his signature. The person shall be brought before the body conducting proceedings immediately after his *de facto* deprivation of liberty. The fact of compulsory bringing in shall be recorded by the body conducting proceedings in the respective protocol, the copy, and in case of the Court, the extract of which shall be provided to the person. The protocol shall specify the name, surname, patronymic of the person, the year, month, day, hour, minute, conditions of and grounds for his *de facto* deprivation of liberty, his statements, the name, surname, position, rank of the person who has performed the compulsory bringing in, as well as the year, month, day, hour and the minute of bringing the person before the body conducting proceedings and of composing the protocol. The protocol or the extract shall be signed by the compulsorily brought person, by the competent person who has performed the compulsory bringing in, as well as by the body conducting proceedings.

4. The custody of a person may not last longer than the fulfilment of the obligation for the securing of which he has been compulsorily brought in, but in any case, no longer than for 12 hours. If the necessity for holding a person in custody ceases to exist or the maximum time period specified in this paragraph expires, the person shall be promptly released. That fact, and the ground for, the year, month, day, hour and the minute

of releasing the person shall be specified in the respective protocol, the copy or the extract of which shall be served upon the person.

Article 146. Judicial Fine

1. In case of a failure to comply with the requirements of the reprimand issued by the Presiding Judge, the Court shall be authorized to impose a judicial fine in relation to the participant in the court proceedings.

2. The amount of the judicial fine may not exceed 100.000 Armenian Drams. The judicial fine shall be imposed by a separate decision of the Court rendered in the same court session, the copy of which shall be sent to the person who has been fined on the same day.

3. The decision on imposing a judicial fine may be appealed under the special review procedure prescribed by this Code.

4. In case of a failure to voluntarily comply with the decision on imposing a judicial fine, it shall be subject to compulsory enforcement in accordance with the procedure provided for by the Law on Compulsory Enforcement of Judicial Acts.

5. The imposed judicial fine shall be paid to the state budget.

Article 147. Removal from the Proceedings

1. The Attorney, or the Authorised Representative, or the Legal Representative participating in the proceedings, as well as the Public Prosecutor may be removed from the proceedings by a reasoned decision of the body conducting proceedings if he:

1) Has failed twice, without a good reason, to appear in the court session or at the performance of a procedural action mandatory for him; or

2) After having been subjected to a procedural sanction thrice in a manner prescribed by this Chapter, continues to maliciously fail the fulfilment of his obligations.

2. Decision of the Investigator on removal of the Attorney, the Authorized Representative or the Legal Representative from the proceedings rendered within the pre-trial proceedings shall be subject to approval by the Supervising Prosecutor.

3. Decision of the Investigator on removal from the proceedings may be appealed to the Superior Prosecutor within a seven-day period upon the receipt thereof, or, in case of not granting the appeal - to the Court. Decision of the Court on removal from the proceedings may be appealed in accordance with the special review procedure prescribed by this Code.

SECTION 5. OTHER GENERAL PROVISIONS

CHAPTER 18. CLARIFICATIONS AND NOTIFICATIONS

Article 148. Clarification of Rights and Obligations

1. Everyone, being involved in the proceedings, shall have the right to be informed of his rights and obligations, as well as of the significance of a procedural action being performed with his participation.

2. The body conducting proceedings shall be obliged to clarify to each person involved in the proceedings his rights and obligations, and to ensure proper and real opportunity for their exercise.

3. The rights and obligations of each person involved in the proceedings shall be clarified to him prior to the beginning of the procedural action performed with his participation and prior to expressing any position by him.

4. The body conducting proceedings shall be obliged to communicate to a participant in the proceedings the necessary data about the persons whose recusal may be sought.

5. The Investigator shall be obliged to communicate to the private participants in the proceedings and the persons supporting the proceedings the name, surname, position, business telephone number, e-mail and work addresses of the Supervising Prosecutor and the Head of the Investigative Body in the particular proceedings.

Article 149. Methods of Notification

1. The body conducting proceedings shall be obliged to duly notify of a procedural action and a court session the persons who have the right or obligation to participate therein.

2. During the proceedings the person shall be notified:

1) By means of a paper-based written notice or an electronic notice;

2) By announcing the notification during the procedural action or the court session taking place with the participation of the person being notified, and by mentioning it in the respective protocol;

3) By any other method, upon the consent of the person being notified.

3. A minor shall be notified through his Legal Representative and, in case of being in a special institution, through the administration of the latter.

4. A person held in custody shall be notified through the administration of the respective place.

5. A military serviceman shall be notified through the command of the military unit.

Article 150. Written Notice and Its Content

1. Written notice is a paper-based or electronic document by which the body conducting proceedings invites a person to participate in a particular procedural action or court session.

2. The written notice shall specify:

1) The data of the inviting body or official;

2) The name, surname, address, and the status of the invited person;

3) The relevant data of the person being notified, if he is notified through another person or institution;

4) The time and place of appearance (year, month, day and hour);

5) The fact that served as a ground for initiation of proceedings and the legal assessment thereof;

6) The procedural action to be performed;

7) The obligation of the person receiving the notice to provide it to the invited person;

8) The legal consequences of a failure to appear without a good reason.

3. The list of rights and obligations arising from the status of an invited person shall be attached to the written notice addressed to the person who is invited in that status for the first time.

4. Written notice addressed to the Victim or the Witness shall specify that in case of appearing to the procedural action without an Attorney, the given procedural action shall not be postponed on the ground that an Attorney has been requested.

Article 151. Delivery of a Written Notice

1. Written notice shall be delivered no later than two days prior to the date of the procedural action or the court session. If the procedural action or the court session is not planned, or the court hearings cannot be postponed, then the written notice may be delivered on the day before the appearance or immediately before the appearance, specifying in it the reason for the late delivery of the written notice.

2. Paper-based written notice shall be delivered directly or by mail at the address specified by 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. Paper-based written notice shall be delivered to the person being notified in person against his signature or, in case of his temporary absence, to any of the adult family members residing with him or to the employee of the condominium. If the 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 the 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 section of the paper-based written notice reserved for signature, the recipient shall mark his name, surname, and the 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. Paper-based written notice may be sent to a person residing in the territory of another state also through the diplomatic missions of the Republic of Armenia or in any other manner prescribed by an international treaty.

6. The section of a paper-based written notice reserved for signature shall be returned to the body conducting proceedings.

7. Electronic notice shall be sent to the official e-mail address of the person being notified, or to the e-mail address or the telephone number provided by him in writing.

Article 152. Obligation to Accept a Paper-Based Written Notice

1. The person being notified shall be obliged to accept the paper-based written notice.

2. If the person being notified refuses to accept the paper-based written notice, then the person delivering the written notice shall make a note of it in the section of the written notice reserved for signature and return the written notice to the body conducting proceedings.

Article 153. Propriety of Notification

1. Notification shall be proper if:

1) The person being notified has received the paper-based written notice in person;

2) The paper-based written notice has been received at the address specified by the person being notified;

3) The recipient of the paper-based written notice has confirmed in writing the fact of delivering it to the person being notified;

4) The paper-based written notice has been returned to the body conducting proceedings with a note on the refusal of the person being notified to accept it, provided that the person delivering the written notice is a person having no interest in the proceedings;

5) There is an electronic confirmation of the receipt of the electronic notice sent to the e-mail address of the person being notified;

6) The person being notified has confirmed the fact of receiving the notice with his signature in the protocol of the procedural action;

7) The fact of notification has been documented by means of voice recording in the court session;

8) The notice has been sent in a manner proposed clearly and in writing by the person being notified.

2. The person invited by a proper notification shall be obliged to appear at the place of the performance of the procedural action or of the court session at the time indicated or to give the body conducting proceedings a prior notice of the reasons for not appearing. The compulsory measures provided for by this Code may be applied in relation to the person who fails to appear without a good reason.

CHAPTER 19. MOTIONS AND APPEALS

Article 154. Submission and Resolution of a Motion

1. Verbal motion shall be documented in the protocol of the procedural action or that of the court session, whereas written motion shall be attached to the materials of the proceedings.

2. Verbal motion shall be examined and resolved promptly. Written motion shall be examined and resolved within seven days upon its receipt.

3. After notifying the private participants in the proceedings by composing an indictment on completion of preliminary investigation, their motions to the Investigator or to the Supervising Prosecutor may be left without examination, which shall not be subject to appeal.

4. The resolution of the motion may be postponed by a decision of the body conducting proceedings till the establishment of the essential circumstances for rendering a final decision on the motion.

5. The motion shall be left without examination, if it has been submitted by a person not having the right thereof, in the cases prescribed by law it has been submitted out of time or has not been signed.

6. The body conducting proceedings shall immediately send the copy of the decision rendered in relation to the motion to the person who has submitted it.

7. Rejection of the motion may not preclude the submission of a motion regarding the same issue in subsequent stages of the proceedings or to another body conducting proceedings. The motion submitted again within the same stage of the

proceedings or to the same body conducting proceedings shall be taken for examination, if new substantial arguments are brought in support of such motion. Otherwise, the motion shall be left without examination

Article 155. Motion to be Recognized as 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 exist, to submit a motion to be recognized as a Victim or a Legal Representative.

2. A person's motion to be recognized as a Victim or a Legal Representative shall be examined promptly by the body conducting proceedings within three days upon its receipt. The person submitting the motion shall be notified immediately about the decision rendered in respect of the motion, the copy of which shall be sent to him.

Article 156. Appeals

1. The procedural act of the Court, as well as that of the public participant in the proceedings may be appealed, in the procedure prescribed by this Code within a seven-day period, by the participants in the proceedings, as well as by other persons to the legitimate interests of whom such procedural act concerns, unless a different time period of appeal is prescribed by this Code.

2. The procedural act of the Head of the Inquiry Body, of the Inquiry Officer, of the Investigator, or of the Head of the Investigative Body may be appealed to the Supervising Prosecutor, the procedural act of the Supervising Prosecutor – to the Superior Prosecutor, that of the Court – to the higher Court. In cases prescribed by this Code, the procedural act of the public participant in the proceedings may be appealed to the Court.

3. The person who has brought the appeal shall have the right to withdraw it, unless this Code provides otherwise. Withdrawal of the appeal shall not preclude submission of the same appeal again within the time period prescribed for submitting an appeal.

4. The appeal brought for the benefit of the Accused may be withdrawn only upon his consent. The appeal brought for the benefit of a minor or an incapacitated person or a person having a mental health issue may not be withdrawn.

5. The appeal addressed to a public participant in the proceedings shall be examined and resolved within seven days upon its receipt, unless a different time period is envisaged by this Code.

6. The appeal shall be left without examination, if it has been brought by a person not having the right to bring an appeal, is out of time, does not contain indication of the appealed procedural act, or is not signed.

7. The competent body shall adopt a decision regarding the appeal, the copy of which shall be immediately sent to the person who brought the appeal. The appeal and the decision taken in relation to it shall be attached to the materials of the proceedings.

CHAPTER 20. PROPERTY CLAIM AND REHABILITATION

Article 157. Court Jurisdiction over the Property Claim

1. The property claim shall be examined within the framework of the criminal proceedings, in accordance with the court jurisdiction over it.

Article 158. Legislation Applied during the Examination of the Property Claim

1. The property claim shall be lodged, proven, and resolved in accordance with the rules specified by the provisions of this Code.

2. The application of the legal provisions of the civil procedure legislation shall be permitted if they do not contradict to this Code, and the property claim proceedings require rules that are not specified by this Code.

3. Within the framework of the criminal proceedings, the ground for, terms, volume, and methods of compensation of pecuniary damage shall be specified by the civil, environmental, family, labour, social, and other substantive legislation.

4. Within the criminal proceedings, the property claim shall not be subject to the statute of limitation and the right to recourse as provided for by the civil legislation, as well as to the rules specified by the civil procedure legislation for lodging a counterclaim.

5. A state duty shall not be collected for lodging a property claim.

6. The conclusive judicial act in the part of the property claim shall be enforced in the procedure prescribed by the Law on Compulsory Enforcement of Judicial Acts.

Article 159. Pecuniary Damage Subject to Compensation during the Criminal Proceedings

1. The following damages inflicted by the act attributed to the Accused shall be subject to compensation within the criminal proceedings:

1) Directly inflicted pecuniary damage;

2) Costs incurred for substituting or repairing lost, damaged, or destroyed property;

3) Reasonable costs incurred for restoring health, including costs of additional food and supplementary care;

4) Reasonable costs incurred for the burial, instalment of the memorial, of the tombstone, as well as for the amelioration of the grave of the deceased Victim or the person subject to recognition as a Victim.

Article 160. Lodging of the Property Claim

1. A property claim for the protection of private interests shall be lodged and defended by the Victim or his representative, and for the protection of state interests - by the Prosecutor.

2. The property claim may be lodged after transmitting the criminal case file to the Court, prior to completion of the preliminary hearings. The Victim who becomes involved in the proceedings later on, has the right to lodge a property claim immediately after being recognized as a Victim.

3. A property claim shall be lodged against the Accused or the person on whom pecuniary liability for the actions of the Accused may be imposed.

4. The claim shall specify the proceedings in which the property claim is lodged, by whom, against whom, on which ground, and for which amount it is lodged, and shall contain a request for forfeiture of a specific monetary amount or property for compensation of damage.

5. In case of necessity of clarifying the ground for and the amount of the claim, the Victim, his representative, or the Prosecutor shall have the right, prior to the parties making their closing arguments, to amend or supplement the claim in writing.

6. If the claim does not meet the requirements prescribed by law, the Court shall return it to the person who submitted it for the purpose of addressing the deficiencies. In case of addressing the deficiencies and submitting the claim again within a three-day period, the claim shall be deemed admitted on the original day of submission. Otherwise, the claim shall be deemed as not lodged.

7. The Court, of its own motion or upon the motion of the person who submitted the property claim, shall take measures for securing the property claim.

8. In case of not lodging a property claim, the person shall be entitled to lodge such claim through civil procedure.

Article 161. Dropping of the Property Claim

1. The person who submitted a property claim shall be entitled to drop the claim at any time, unless it contradicts the law or violates the rights and legitimate interests of other persons.

2. Acceptance of the dropping of the property claim shall result in termination of proceedings in the part of the property claim and deprive the respective person of an opportunity to lodge the property claim in question again through criminal or civil procedure.

3. The Court, prior to accepting the dropping of the property claim, 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 accepting or not accepting the dropping of the claim.

5. Dropping of the property claim shall not serve as a ground for dropping or modifying the criminal charges or for rendering an acquitting judgment.

Article 162. Resolution of the Property Claim

1. A property claim shall be resolved by a conclusive judicial act by being granted fully or partially, including in the form of a settlement agreement, rejected or left without resolution.

2. In case of rendering an acquitting judgment, terminating the criminal prosecution or terminating the proceedings, the Court shall be authorized to grant the claim fully or partially depending on the extent to which the claim has been proven.

3. The judicial act having entered into legal force which rejected the property claim or granted it fully or partially, shall preclude examination of the claim on the same subject matter between the same persons through civil procedure.

4. The property claim left without resolution later may be lodged through civil procedure.

Article 163. Compensation of Pecuniary Damage of Court's own Motion

1. If the Victim is deprived of an opportunity to defend his pecuniary interests due to his dependence from the Accused, or his incapacity or limited capacity, or a mental health issue or for any other reason, the Court shall be authorized to resolve in the conclusive judicial act the issue of compensation of damage inflicted by the crime of its own motion.

Article 164. Rehabilitation of an Acquitted Accused

1. The Acquitted Accused shall be entitled to claim the damage inflicted on him as a result of institution of unlawful criminal prosecution, application of compulsory measures, conviction, as well as other unlawful restrictions of the rights or freedoms.

2. As compensation, the Acquitted Accused shall have the right to receive:

1) The salary, pension, allowance or any other income which he has been deprived of;

2) The damage caused due to seizing, attaching, confiscating or otherwise disposing of the property;

3) The amount spent due to being in custody;

4) The amount paid to the Attorney;

5) The paid court expenses;

3. The Acquitted Accused shall have the right:

1) To be reinstated in his former job (his former position), and in case of impossibility of the latter, to get an equivalent job (position) or to receive a pecuniary compensation for the damage inflicted as a result of losing his former job (position);

2) That the term of serving the sentence in the form of deprivation of liberty be calculated in all the types of work experience;

3) To reinstate the honorary or military title, rank, degree, qualification category or the state award;

4. The body which instituted the criminal prosecution shall, upon the request of the Acquitted Accused, make a public apology to him.

5. In case of death of an Acquitted Accused, his Legal Representative shall exercise the rights prescribed by this Article.

6. If the criminal prosecution has been terminated based on the circumstances prescribed by Clauses 1 to 9 of Paragraph 1 of Article 12 of this Code, or an acquitting judgment has been delivered by the Court of Appeal, the person may claim rehabilitation prescribed by this Article only through civil procedure.

CHAPTER 21. REMUNERATION, EXPENSES AND REIMBURSEMENT

Article 165. Remuneration of an Attorney, Expert and Interpreter

1. Legal aid provided by an Attorney shall be remunerated at the expense of the client on the terms agreed upon between the Attorney and the client, or, if the Attorney agrees, shall be provided at no cost.

2. In the cases envisaged by the legislation of the Republic of Armenia, legal aid provided by the Attorney shall be remunerated at the expense of the state.

3. The Expert and the Interpreter shall receive:

1) Salary from the workplace, if they have participated in the proceedings in discharge of a work assignment;

2) Remuneration at the expense of the state in the amount specified by the legislation of the Republic of Armenia, if the work was performed based on direct agreement with the body conducting proceedings;

3) Remuneration in the amount agreed upon with the respective private participant in the proceedings, if the work was performed on the basis of an agreement with such participant.

4. In the case prescribed by Clause 2 of Paragraph 3 of this Article, the remuneration shall be paid based on a decision of the body conducting proceedings after the Interpreter or the Expert has submitted an invoice.

Article 166. Expenses of the Persons Involved in the Proceedings and Their Reimbursement

1. The state shall reimburse the following expenses incurred by the Victim, his Legal Representative, the Property Respondent, the Legal Representative of the Accused, the Attorney appointed at the expense of the state, the Expert, the Interpreter, the Psychologist, and the Witness:

1) Transport expenses incurred for appearing upon the invitation of the body conducting proceedings (except for air travel fare), and, upon the consent of the body conducting proceedings, also the air travel fare;

2) The costs of an overnight stay, unless such costs were reimbursed in any other manner;

3) The per diem necessary for such persons to reside outside the place of their permanent residence when required by the body conducting proceedings, unless such costs have been reimbursed in any other manner;

4) The average wage for the whole period of time during which the person was at disposal of the body conducting proceedings for participating in the proceedings, without performing his work duties, unless the average wage was maintained by such person's employer;

5) The costs for cleaning, repairing, recovering, or acquiring the property that has been soiled, spoiled, destroyed, or lost as a result of participation in a procedural action based on the request of the body conducting proceedings.

2. The Expert shall also be reimbursed for the value of his own materials expended by him while performing the work assigned to him, as well as for the costs incurred for using the equipment necessary and for obtaining the services needed for performing the work.

3. The costs incurred during the proceedings shall be reimbursed by a decision of the body conducting proceedings based on the application by the persons listed in Paragraph 1 of this Article, in the amount specified by the legislation of the Republic of Armenia. The expenses envisaged by Clauses 1 to 3 of Paragraph 1 of this Article may, in cases provided for by the legislation of the Republic of Armenia, be reimbursed of the own motion of the body conducting proceedings.

Article 167. Costs of the Proceedings and Their Reimbursement

1. The following shall be the costs of the proceedings:

1) Amounts for reimbursement of expenses of travel for the appearance, overnight stay and per diem of the Victim, the Expert, the Psychologist and the Witness;

2) Amounts for remuneration of the Expert and the Interpreter;

3) Amounts payable to an Attorney involved at the expense of the state;

4) Amounts spent for retention, delivery, and examination of 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 examination and experiments and the amounts spent for reimbursing other similar costs incurred during the proceedings;

7) Amounts spent for implementation of measures necessary for the proper conduct of the proceedings.

2. In case of public prosecution, the costs of the proceedings shall be paid at the expense of the state, unless otherwise provided by this Code. In case of private prosecution, the Court shall determine the procedure for sharing the costs of the proceedings.

3. If the Convicted Accused is solvent, then the Court shall impose on him the obligation to reimburse the costs of proceedings listed in Clauses 1, 2 and 4 to 7 of Paragraph 1 of this Article.

4. In case of conviction of several persons within the framework of the same proceedings, the costs of the proceedings shall be distributed between them as per shares determined by the Court, taking into account the degree and the nature of guilt, and the property status of each person.

5. If the Accused dies prior to the judgment's entry into legal force, his heirs shall not be liable for his obligations connected with the costs of the proceedings.

6. If the Convicted Accused or the Victim are obviously solvent, the Court shall be authorized to collect from them the costs incurred by the state to pay for legal aid provided to them, except for the case when the legal aid was provided to the Accused regardless of his will.

CHAPTER 22. PRESERVATION OF CONFIDENTIALITY

Article 168. Preservation of Confidentiality of Private and Family Life

1. The body conducting proceedings shall be obliged to take measures envisaged by law for preserving confidentiality of private and family life.

2. Upon the request of the body conducting proceedings, the participants in the procedural actions shall be obliged not to disclose such information, for which their signature shall be taken.

3. Evidence concerning the most intimate aspects of private or family life shall be examined in an in-camera court session based on the request of an interested participant in the proceedings or of the own motion of the Court.

4. The materials obtained as a result of performance of undercover investigative actions and operative-intelligence measures, that are not relevant to the proceedings and concern the private or family life of a person shall be kept separately and may not be used within the proceedings in question, except for the case when their relevance is challenged by a participant in the proceedings. Such materials shall be destroyed in the procedure prescribed by the legislation of the Republic of Armenia after four months upon the entry of the conclusive procedural act into legal force.

Article 169. Preservation of State Secrecy

1. The body conducting proceedings shall be obliged to take measures envisaged by law for preservation of information containing state secrecy.

2. The person whom the body conducting proceedings requires to communicate, in accordance with the provisions of this Code, information containing state secrecy, may not refuse to comply with such requirement citing the need of protection of state secrecy, but shall be entitled to receive in advance a clarification from the body conducting proceedings, confirming the need to receive such information, which shall be reflected in the respective protocol.

3. The public servant giving testimony about information which contains state secrecy and has been entrusted upon him shall report on this in writing to the head of the

respective state body, unless the body conducting proceedings explicitly prohibits him from doing so.

4. The proceedings related to information containing state secrecy shall be conducted by the Investigator, the Prosecutor, the Judge, who, in accordance with the legislation of the Republic of Armenia, has signed for non-disclosure of such information.

5. The private participants in the proceedings to whom information containing state secrecy is presented for familiarization or communicated otherwise, shall give their signature in advance for non-disclosure of such data. In case of refusing to give their signature, the information containing state secrecy shall not be provided.

Article 170. Preservation of Banking Secrecy and Other Secrecy Prescribed by Law

1. The body conducting proceedings shall be obliged to take measures envisaged by law for preserving the information containing medical, notary secrecy, banking and related secrecy, as well as service, commercial, and other secrecy prescribed by law.

2. During the proceedings, information containing the secrecy specified in Paragraph 1 of this Article shall not be arbitrarily collected, stored, used, or disseminated. Upon the request of the body conducting proceedings, the participants in the procedural actions shall be obliged not to disclose such information, about which their signature shall be taken.

3. The person whom the body conducting criminal proceedings requires to communicate, in accordance with the provisions of this Code, information containing attorney, medical, notary, banking or related secrecy, shall be entitled to refuse to comply with such requirement referring to the need for preserving the respective secrecy.

4. The person whom the body conducting proceedings requires to communicate, in accordance with the provisions of this Code, information containing secrecy not specified in Paragraph 3 of this Article, may not refuse to comply with such requirement referring to the need for preserving the respective secrecy, but shall be entitled to receive in advance a clarification from the Investigator confirming the need to receive such information, which shall be reflected in the respective protocol.

5. A person giving testimony about information which contains secrecy not envisaged by Paragraph 3 of this Article and which has been entrusted upon him, shall report on this in writing to the respective supervisor, unless the body conducting proceedings explicitly prohibits him from doing so.

6. Evidence concerning information containing the secrecy envisaged by this Article may, of the own motion of the Court or at the request of the interested persons, be examined in an in-camera court session.

CHAPTER 23. TIME PERIODS

Article 171. Calculation of Time Periods

1. The time periods defined by this Code shall be calculated in hours, days, months and years.

2. The hour or the day from which the time period starts running shall not be included when calculating a time period.

3. When calculating the time period in days, the time period shall start running from the zero hour of the night of the first day and shall end on the 24th hour of the night of the last day. When calculating the time period in months or years, the time period shall end on the respective day of the last month or, if the month does not have that date, then the time period shall end on the last day of such month. If the day on which the time period ends is a non-working day, then the first working day following it shall be considered as the last day of the time period, however this rule shall not apply when calculating the time periods for the deprivation of liberty of a person.

4. A time period shall not be deemed as having been 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, and the time of delivering an appeal or other document

to the administration of a place of custody or to the administration of a medical institution shall be determined by the note made by the offices or the officials of such institutions.

6. The fact of receipt of documents by persons involved in the proceedings shall be confirmed by a proper document attached to the materials of the proceedings.

Article 172. Consequences of Missing a Time Period and the Procedure for Reinstating thereof

1. Actions performed after the expiration of the time period shall give a rise to unfavourable procedural consequences, 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 good reason shall be reinstated by a decision of the body conducting proceedings upon a motion by an interested person. The time period shall be reinstated only for the person submitting such motion, unless the respective decision of the body conducting proceedings provides otherwise.

4. Enforcement of a decision appealed out of the set time period, may be suspended upon the motion of the appealing person until the issue of reinstating the missed time period is resolved.

PART TWO: PRELIMINARY PROCEEDINGS

SECTION 6. PRE-TRIAL PROCEEDINGS

CHAPTER 24. INITIATION OF CRIMINAL PROCEEDINGS

Article 173. Obligation to Initiate Criminal Proceedings

1. An Investigator shall be obliged, within the scope of his authorities, to initiate criminal proceedings, if a proper report on a *prima-facie* crime has been received from:

1) A natural person;

2) A legal person;

3) A state or local self-government body or its official - in connection with the performance of his activities;

4) An Inquiry Body, an Investigator, a Prosecutor, or a Judge - in connection with the exercise of their powers.

2. The respective report shall be deemed as a report of a *prima-facie* crime, if it is a factual allegation of an incident or an action or inaction that can be reasonably given the preliminary legal assessment of falling under an act prescribed by the Criminal Code of the Republic of Armenia.

3. If the incident, action or inaction alleged as a fact in the report can be given a preliminary legal assessment of falling only under an act prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia, then the obligation to initiate criminal proceedings shall arise only, when such report has been submitted by the Victim of the alleged crime or by his representative, and at the same time the person who has committed the alleged crime is unknown to him.

4. Information published in the mass media on a *prima-facie* crime may serve as a reason for the Investigator to initiate criminal proceedings.

5. Refusal of the request to extradite a person under international law shall be a reason for initiating criminal proceedings in connection with the alleged crime specified in such extradition request, if such person and the alleged act attributed to him fall under the effect of the Criminal Code of the Republic of Armenia.

6. Criminal proceedings may not be initiated, if the information on the crime has been received from a source that is not specified by this Article, including from an unknown or undiscovered source. Such information shall be verified of the own motion of the Prosecutor or the Investigator in accordance with the procedure prescribed by the Law on Operative-Intelligence Activities, provided that it contains such facts that can be reasonably verified.

Article 174. Direct Report by a Natural Person

1. The direct report by a natural person on a *prima-facie* crime shall be accepted by a competent officer of the Police or other respective state body of the Republic of Armenia, in order to transfer it to the Investigator, or directly by the Investigator.

2. The direct report by a natural person on a *prima-facie* crime shall be in writing and in first-person. The report shall contain the name, patronymic, surname, date of birth, residence address and the signature of the person submitting it, as well as the connection of such natural person with the crime and the source of his awareness. Materials confirming the respective facts may be attached to the report.

3. When the natural person submitting the report has reached 16 years of age, he shall be warned of the criminal liability for false accusation, which he shall confirm with his signature. A similar warning with a signature shall be also made in case, when the natural person submits a written report prepared in advance.

Article 175. Postal Report by a Natural or Legal Person

1. A postal report by a natural person on a *prima-facie* crime shall have a form of a letter, electronic letter or other accepted form of communication. The postal report of a natural person shall contain sufficient data to identify the natural person that has submitted that report, as well as reveal the connection of such natural person with the crime and the source of his awareness.

2. A postal report by a legal person shall have a form of a formal letter, electronic letter or other accepted form of communication. The report shall contain the full name and

the location of the legal person that has submitted the report, as well as the connection of such legal person with the crime and the source of its awareness.

3. Materials confirming the respective fact may be attached to a postal report of a natural or legal person.

4. If the postal report submitted by a natural or legal person does not correspond to Paragraph 1 or 2 of this Article, then the Investigator shall be authorised not to initiate criminal proceedings, about which the person that submitted the report, shall be notified in writing. Such a report may be verified of the own motion of the Prosecutor or the Investigator in accordance with the procedure specified by the Law on Operative-Intelligence Activities.

Article 176. Report by a State or Local Self-Government Body or the Official thereof

1. A report by a state or local self-government body or the official thereof shall have the form of an official letter written on a template form and properly certified, or a form of an e-mail, or other accepted form of communication.

2. The report shall contain the full name and the address of the state or local self-government body that has submitted it or the name, surname, and position of the respective official, as well as reveal the activity of the respective body or the official during the performance of which the fact of a *prima-facie* crime became known to them. Materials confirming the respective fact may be attached to the report.

Article 177. Report by a Body Performing Operative-Intelligence Activities, Investigator, Prosecutor, or Judge

1. A report by a body performing operative-intelligence activities, Investigator, Prosecutor, or Judge shall have the form of an official letter written on a template form and properly certified, the form of an e-mail, or other accepted form of communication.

2. The report shall contain the full name and the address of the body that has submitted it or the name, surname, and position of the respective official, as well as reveal the power of the respective body or the official during the exercise of which the fact of a

prima-facie crime became known to them. Materials confirming the respective fact may be attached to the report.

Article 178. Procedure for Initiation of Criminal Proceedings

1. Every time a proper report of a *prima-facie* crime is received from any source envisaged by Article 173 of this Code, the Investigator shall promptly, but no later than within 24 hours, compose a protocol on initiation of criminal proceedings, and the Prosecutor, in accordance with the rules of the investigative jurisdiction prescribed by this Code, shall re-address it to the Head of the competent Investigative Body for resolving the issue of initiation of criminal proceedings.

2. The protocol shall specify the name, surname and position of the Investigator initiating criminal proceedings, the reason for initiating criminal proceedings, the factual description of the *prima-facie* crime presented in the report, the Article, Paragraph or Clause of the Article of the Criminal Code based on the elements of which the proceedings are being commenced, and the list of the materials attached to the report, if any.

3. After composing the protocol, the Investigator shall immediately proceed with conducting preliminary investigation, promptly sending the copies of the protocol and the attachments thereof to the Supervising Prosecutor. Immediately upon composing the protocol, the copy thereof shall be served upon or sent to the person who submitted the report.

4. Simultaneously with composing a protocol on initiation of criminal proceedings in each new case, the Investigator shall be obliged, within the scope of his authority, to undertake all the necessary measures envisaged by this Code to prevent or suppress the criminally prosecutable act, to find the person who committed it, as well as to keep and to preserve the traces of the crime and the objects or documents significant to the proceedings.

5. In each case of initiation of criminal proceedings, the Investigator shall immediately inform the Head of the competent Inquiry Body about it in writing, attaching the copy of the protocol on initiation of criminal proceedings.

6. If the Investigator who initiated criminal proceedings, is not authorized, under the rules of investigative jurisdiction prescribed by this Code, to perform a preliminary investigation, then he, after performing all the procedural actions necessitated by the situation, shall send the protocol on initiation of criminal proceedings to the Supervising Prosecutor, attaching all the materials of the proceedings to it.

7. Each time a fact of a commission of another alleged crime is discovered during the preliminary investigation, new criminal proceedings shall be initiated.

Article 179. Refusal to Initiate Criminal Proceedings

1. If the report is not in line with the terms envisaged by Paragraphs 2 and 3 of Article 173 of this Code, the Investigator shall not compose a protocol on initiation of criminal proceedings, about which he shall notify the Supervising Prosecutor in writing, indicating the ground for not initiating criminal proceedings.

2. The Supervising Prosecutor, within 24 hours after being notified that no criminal proceedings have been initiated, shall approve it or instruct the Investigator to initiate criminal proceedings and start preliminary investigation.

3. The Investigator shall, promptly and in writing, notify the person, who has submitted the report, that no criminal proceedings have been initiated and that the lawfulness thereof has been approved by the Supervising Prosecutor, specifying the ground for not initiating criminal proceedings, as well as clarifying the procedure and time frames for appealing the refusal to initiate criminal proceedings.

CHAPTER 25. GENERAL TERMS OF PRE-TRIAL PROCEEDINGS

Article 180. Preliminary Investigation Bodies

1. Within the scope of their authority, the Investigators of the Investigative Committee, of the Anti-Corruption Committee, of the National Security Service and of the State Revenue Committee shall perform the preliminary investigation.

Article 181. Investigative Jurisdiction

1. Preliminary investigation in proceedings on corruption crimes prescribed by Annex N1 of the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the Anti-Corruption Committee.

2. Preliminary investigation in proceedings on crimes prescribed by Articles 133, 134, 136-138, 142-146, 149-154, 308-314, 316, 317, 331-333, 349, 350, 418-429, 450, 451, 469-471 of the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the National Security Service.

3. Preliminary investigation in proceedings on crimes prescribed by Articles 267-269, 271, 281, 282, 284-290, 294, 409, 410 of the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the Investigative Committee or of the State Revenue Committee.

4. Preliminary investigation in proceedings on crimes prescribed by Articles 291-293, 340, 399 of the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the National Security Service or of the State Revenue Committee.

5. Preliminary investigation in proceedings on crimes prescribed by Articles 135, 139-141, 147, 148, 329, 330, 430 of the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the Investigative Committee or of the National Security Service.

6. Preliminary investigation in proceedings on other crimes prescribed by the Criminal Code of the Republic of Armenia shall be conducted by the Investigators of the Investigative Committee.

7. Preliminary investigation in proceedings on crimes attributed to the persons performing state service at the Anti-Corruption Committee or committed by them in

criminal complicity in connection with their official position shall be conducted by the Investigators of the National Security Service.

8. Preliminary investigation in proceedings on crimes attributed to the persons occupying an autonomous position at the Investigative Committee, State Revenue Committee or in proceedings on crimes not envisaged by Paragraph 1 of this Article, which are committed by them in criminal complicity in connection with their official position, shall be conducted by the Investigators of the National Security Service.

9. Preliminary investigation in proceedings on crimes attributed to the persons occupying an autonomous position at the National Security Service or in proceedings on crimes not envisaged by Paragraph 1 of this Article, which are committed by them in criminal complicity in connection with their official position shall be conducted by the Investigators of the Investigative Committee.

10. Preliminary investigation in proceedings on crimes envisaged in Paragraphs 3 to 5 of this Article shall be conducted by the body that initiated the criminal proceedings in question, unless the Superior Prosecutor, for the purpose of ensuring comprehensive and impartial preliminary investigation, instructs the other preliminary investigation body to continue the proceedings.

11. Preliminary investigation in proceedings on crimes prescribed by Articles 182, 238, 295, 446, 473-476, 483, 485, 495, 503, 504, 509-511 of the Criminal Code of the Republic of Armenia, with the exception of the proceedings concerning the crimes attributed to the persons specified in Paragraphs 7 to 9 of this Article, shall be conducted by that preliminary investigation body within the proceedings of which the given crime has been discovered.

12. In the event of joinder of the proceedings on crimes falling under the jurisdiction of Investigators from different preliminary investigation bodies into one set of proceedings or in the event a crime not envisaged by Paragraph 11 of this Article and subject to investigation by another Investigator is discovered during the proceedings, the investigative jurisdiction, with the exception of the proceedings on crimes specified in Paragraph 1 of this Article, as well as the proceedings on crimes attributed to the persons

specified in Paragraphs 7 to 9 of this Article, shall be determined by the Superior Prosecutor for the purpose of ensuring comprehensive and impartial preliminary investigation.

13. In exceptional cases, the Prosecutor General of the Republic of Armenia has the authority to make a decision on assigning the continuation of the proceedings being conducted by an Investigator of one preliminary investigation body to another preliminary investigation body, if, as a measure of last resort, it is necessary for ensuring the performance of a proper, comprehensive and objective investigation.

14. The requests on mutual legal assistance in criminal matters developed in accordance with the international treaties and law of the Republic of Armenia shall be executed by the preliminary investigation bodies in accordance with the investigative jurisdiction specified in this Article.

Article 182. Place of Conducting Preliminary Investigation

1. Preliminary investigation shall be conducted in the place where the alleged crime was committed and in case of impossibility of determining such place - in the place where the alleged crime was discovered.

2. In case of necessity to perform certain evidentiary or other procedural actions in a different place, the Investigator shall be authorized to perform such actions in person or to submit a motion to the Head of the Investigative Body who is his immediate supervisor, to ensure performance of such actions within the scope of his authorities by means of giving an assignment or of submitting a mutual investigative assistance request.

3. To ensure propriety and comprehensiveness, the preliminary investigation, based on the decision of the competent Superior Prosecutor, may be conducted in the place where the alleged crime was discovered, in the place where its consequences emerged, or in the place where the majority of the Accused, the Victims, and the Witnesses are located.

4. In case of commission of alleged crimes in more than one place, if the proceedings related to them have been joined into a single set of proceedings, the preliminary investigation, based on the decision of the competent Superior Prosecutor, may be conducted in the place where the majority or the gravest of such crimes were or was, respectively, committed.

5. During the preliminary investigation, disputes related to territorial jurisdiction shall be resolved by the Prosecutor General of the Republic of Armenia or his Deputy.

Article 183. Performance of Preliminary Investigation by an Investigative Team

1. In case of complexity or large volume of the proceedings, the conduct of the preliminary investigation may be assigned to several Investigators by a separate decision. The decision shall specify the Lead Investigator of the team and all the other Investigators assigned to perform the preliminary investigation.

2. The private participants in the proceedings shall become familiarized with the decision on establishment of an investigative team, and their right to seek recusal in relation to any of the Investigators shall be clarified to them.

Article 184. Powers of the Head of an Investigative Team

1. In the capacity of the Head of an investigative team may be appointed the Investigator of that preliminary investigation body, to which, under the rules specified in Article 181 of this Code, shall be reserved the conduct of preliminary investigation. The Head of the investigative team shall organize and manage the work of the investigative team. The instructions of the Head of the investigative team shall be mandatory for all the Investigators of the team.

2. Only the Head of the investigative team shall be authorized to render decisions on joining, separating, terminating or transforming the proceedings, to submit motions on instituting or not instituting criminal prosecution, terminating, suspending or resuming the criminal prosecution, on choosing a restraint measure, or extending the time period thereof.

3. The indictment or the conclusive act shall be signed by the Head of the investigative team.

4. The Head of the investigative team shall be authorized to participate in investigative actions performed by other Investigators, perform investigative actions in person and render decisions.

Article 185. Establishment of Circumstances Leading to the Commission of a Crime

1. The Prosecutor and the Investigator shall be obliged to take measures during the pre-trial proceedings aimed at the establishment of circumstances leading to the commission of a crime and, if necessary, to submit a motion to the respective official or to the head of the respective legal person on taking measures aimed at elimination of such circumstances.

2. The motion shall be subject to mandatory consideration, and the results of such consideration shall, within a one-month period, be communicated in writing to the body or official who has sent it.

Article 186. Prohibition on Disclosure of Preliminary Investigation Data

1. Private participants in the proceedings, the Witness and his Attorney shall be entitled to disclose the preliminary investigation data that has become known to them within the framework of a due process of law, unless the Investigator prohibits in writing such disclosure based on any of the grounds envisaged by Paragraph 2 of this Article. In that case, the Investigator shall warn the private participant in the proceedings, the Witness and his Attorney of the criminal liability foreseen for disclosing the preliminary investigation data.

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 cause for commission of a crime;

3) Jeopardize the rights or legitimate interests of the participants in the proceedings or other persons;

4) Lead to disclosure of a secrecy preserved by law.

3. The prohibitions on disclosure of the preliminary investigation data envisaged by this Article shall not apply to exchange of information between the Attorney and his client.

Article 187. Criminal-Procedural Superiority within the Preliminary Investigation Body

1. The Head of the Investigative Body shall be the immediate superior to the Investigator.

2. The Head of the respective preliminary investigation body shall be the immediate superior to the Deputy Head of that preliminary investigation body.

3. The Head of the preliminary investigation body or his Deputy, who is in charge for coordination of the respective unit shall be the immediate superior to the Head of the unit of the preliminary investigation body which is not within the structure of any other unit of that preliminary investigation body.

4. The Head of the respective unit of the preliminary investigation body shall be the immediate superior to the Deputy Head of that unit.

5. The Head of the respective unit of the preliminary investigation body shall be the immediate superior to the Head of the sub-unit which is not under the coordination of any of the Deputies of the Head of that unit.

6. The respective Deputy Head of the unit of the preliminary investigation body shall be the immediate superior to the Head of the sub-unit which is under the coordination of that Deputy Head of the unit.

7. The Deputy Head of a unit of the preliminary investigation body which does not have sub-units within its structure shall be the immediate superior to the Investigators who are coordinated by that Deputy Head of the unit, and the Head of the unit shall be the immediate superior to the rest of the Investigators of that unit.

8. The Head of the preliminary investigation body or the Head of the respective unit of the preliminary investigation body shall be the immediate superior to the Investigators adjunct to the Head of the preliminary investigation body or to the Head of the unit of the preliminary investigation body, respectively.

9. Within the framework of the respective proceedings, the Investigator shall have only one immediate superior.

Article 188. The Ground for Conducting Inquiry, the Commencement and Completion thereof

1. The inquiry shall be conducted on the ground of the Inquiry Body being properly informed about the initiated criminal proceedings. The inquiry may be conducted only after the commencement of the preliminary investigation.

2. Within the framework of the inquiry, the undercover investigative actions may be performed solely on the basis of an instruction of the Investigator.

3. Within the framework of the inquiry, the operative-intelligence measures may be performed based on an instruction of the Investigator or of own motion of the Inquiry Body.

4. The results of the undercover investigative actions and operative-intelligence measures performed within the framework of the inquiry shall be promptly presented to the Investigator.

5. The inquiry shall be completed simultaneously with the preliminary investigation. The ongoing undercover investigative actions and operative-intelligence measures at the moment of completion of the preliminary investigation shall be terminated.

CHAPTER 26. PUBLIC CRIMINAL PROSECUTION

Article 189. Institution of Public Criminal Prosecution

1. Public criminal prosecution against a person shall be instituted by a decision of the Supervising Prosecutor based on the facts indicating the commission of a crime by that person.

2. In case of existence of the facts envisaged by Paragraph 1 of this Article, the Investigator shall be authorized to submit a motion on instituting criminal prosecution against a person to the Supervising Prosecutor, specifying the information necessary for rendering a decision on institution of criminal prosecution as prescribed by Paragraphs 4 and 5 of this Article, as well as attaching the relevant materials of the proceedings. If a

person has been arrested on the ground of an immediately arisen suspicion on having committed a crime, the Investigator shall submit the motion and the materials specified in this Paragraph to the Supervising Prosecutor no later than within 24 hours from the moment of serving the decision on the arrest upon the person.

3. The Supervising Prosecutor, within 12 hours upon the receipt of the motion and the materials substantiating it, shall render a decision on instituting criminal prosecution against the person, or reject by his decision the motion of the Investigator in case of absence of the ground for instituting criminal prosecution.

4. The decision on instituting criminal prosecution shall specify the person's name, surname, patronymic, and other necessary data concerning him, as well as the factual basis of the charges, i.e., the substance, the place, time, method, and the other circumstances of the commission of the imputed act, insofar as they have been established based on the available evidence, as well as the Article, or the Paragraph, or the Clause of the Article of the Criminal Code that prescribes liability for the commission of the imputed act (legal assessment of the act).

5. If several acts prescribed by different Articles, Paragraphs, or Clauses of an Article of the Criminal Code are attributed to the person, the decision shall specify the factual basis and legal assessment for each of them.

6. The Supervising Prosecutor may render the decision on instituting criminal prosecution also of his own motion, based on the materials of the proceedings.

7. The Prosecutor shall not be authorized to instruct the Investigator to submit a motion of particular content on instituting criminal prosecution against a person and shall not be authorized to compose a draft of such a decision.

Article 190. Bringing the Charges

1. The Investigator shall bring the charges within 18 hours upon the receipt of the decision on instituting criminal prosecution, except for the cases specified by Paragraphs 2 and 3 of this Article.

2. In case of disagreeing with the decision to institute criminal prosecution against a person who is not under arrest, the Investigator shall be authorized, without

bringing charges, to submit an objection to the Superior Prosecutor within 18 hours upon the receipt of the decision. If the objection is rejected, the charges shall be brought within 18 hours upon the receipt of the decision on rejection.

3. When the whereabouts of the Accused is unknown, or his availability cannot be ensured due to other reasons, the time period set under Paragraph 1 of this Article for bringing the charges shall be suspended, and the charges shall be brought within 24 hours after the Accused has been put at the disposal of the body conducting proceedings.

4. The Investigator, having ascertained himself in the identity of the Accused, shall serve upon him the copy of the decision on instituting criminal prosecution, clarify the factual basis and the legal assessment of the charges, clarify the rights and obligations of the Accused as prescribed by Article 43 of this Code, as well as serve the list thereof upon the Accused.

5. The performance of the actions prescribed by Paragraph 4 of this Article shall be confirmed by the protocol composed by the Investigator, which shall be signed by the Investigator, the Accused, and other participating persons. If the Accused or other participating persons refuse to sign the protocol, the Investigator, shall, with the audio-visual recording on, determine and state in the protocol the reasons for such refusal or, if they do not communicate any such reasons, make a note on this in the protocol and promptly send the copy thereof to the Supervising Prosecutor. When the audio-visual recording envisaged by this Paragraph is objectively impossible, the Investigator shall invite an Attesting Witness, specifying in the protocol the circumstances proving the impossibility of audio-visual recording.

Article 191. Modifying or Supplementing the Charges

1. If, during the preliminary investigation, the necessity for modifying or supplementing the charges is substantiated, then a new decision on instituting criminal prosecution shall be rendered in compliance with the requirements of Articles 189 and 190 of this Code, and new charges shall be brought against the person.

Article 192. Time Periods of Public Criminal Prosecution

1. Within the pre-trial proceedings, the public criminal prosecution, from the moment of its institution, may not last longer than:

1) Three months - in case of charges for a minor crime;

2) Five months - in case of charges for a medium-gravity crime;

3) Eight months - in case of charges for a grave crime;

4) Ten months - in case of charges for a particularly grave crime.

2. In exceptional cases, when the interests of justice so require, the Superior Prosecutor, upon the motion of the Supervising Prosecutor, shall be authorized to prolong the time period of the public criminal prosecution for up to one month - on charges for a minor or a medium gravity crime, and for up to two months - on charges for a grave or a particularly gravity crime.

3. If public criminal prosecution against a person is instituted for more than one crime of various gravity, then the time period envisaged by Paragraph 1 of this Article for the gravest crime shall apply.

4. If the public criminal prosecution instituted against the person for a crime (crimes) of higher gravity is terminated, or the legal assessment of the act attributed to him is modified, then the time period defined by Paragraph 1 of this Article for the crime (crimes) regarding which the public criminal prosecution continues shall apply. If that time period has expired or is less than one month, the criminal prosecution cannot last more than a month.

5. The time periods envisaged by Paragraph 1 of this Article shall be interrupted from the moment of termination of criminal prosecution and shall continue in the case of revoking the decision on termination of criminal prosecution or renewing the criminal prosecution.

Article 193. Grounds for Suspending the Time Period of Public Criminal Prosecution

1. Within the pre-trial proceedings, the time periods of criminal prosecution prescribed by Article 192 of this Code shall be suspended by a decision of the Supervising

Prosecutor rendered upon the motion of the Investigator on suspending the time period of criminal prosecution based on any of the grounds prescribed by Paragraph 2 or 3 of this Article.

2. The time period of criminal prosecution may be suspended if any of the following grounds exists:

1) The whereabouts of the Accused are unknown due to evading investigation or for any other reason;

2) The Accused has a severe illness that deprives him of opportunity to participate 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;

5) There is a Force Majeure that temporarily hinders further conduct of the proceedings.

3. If without receiving the conclusion of the assigned expert examination or the response to the request on mutual legal assistance in criminal matters, it is impossible to solve the issue of continuing the criminal prosecution against the Accused or terminating it, then, in each case, the time period of the criminal prosecution may be suspended for no more than two months - on charges for a minor or a medium gravity crime and, for no more than four months - on charges for a grave or a particularly grave crime. In any case, based on the grounds envisaged in this Paragraph the total time period of the suspension of criminal prosecution against the same Accused may not exceed the maximum time periods of criminal prosecution envisaged by Article 192 of this Code - on charges for a minor and a medium gravity crime, and the twofold of the maximum time periods of criminal prosecution envisaged by the same Article - on charges for a grave or a particularly grave crime.

4. The time period of criminal prosecution shall be suspended until the circumstances serving as a ground for it have ceased to exist or, in the case envisaged by Clause 4 of Paragraph 2 of this Article - until the termination of the cooperation or the

proper fulfilment by the Accused of the obligations undertaken under the cooperation agreement.

Article 194. Procedure for Suspending the Time Period of Public Criminal Prosecution

1. The decision to suspend the time period of criminal prosecution shall be rendered after performing all the necessary procedural actions possible to perform in the absence of the Accused, but shall not restrict the performance of other procedural actions during the preliminary investigation, if the need for such performance has emerged after the suspension of the time period of criminal prosecution.

2. The Investigator shall promptly send the motion on suspending the time period of criminal prosecution, along with the materials of the proceedings to the Supervising Prosecutor. The Supervising Prosecutor, no later than within seven days upon the receipt of such motion, shall render a decision on suspending the time period of criminal prosecution or on rejecting the motion. Such decisions shall be promptly sent to the Investigator.

3. The Investigator, upon the receipt of the decision of the Supervising Prosecutor on suspending the time period of criminal prosecution, shall immediately serve the copies thereof upon the private participants in the proceedings explaining to them in writing the procedure and the time frames for appealing such decision.

4. The decision on suspending the time period of criminal prosecution may be appealed by the private participant in the proceedings to the Superior Prosecutor within 15 days upon its receipt. The Superior Prosecutor, within a 15-day period upon the receipt of the appeal, shall render a decision on granting or rejecting it.

Article 195. Resumption of the Suspended Time Period of the Criminal Prosecution

1. The time period of criminal prosecution shall be resumed when the ground on which it has been suspended ceases to exist. If the ground for suspending the time period

of criminal prosecution has ceased to exist, the Investigator shall submit a motion to the Prosecutor to resume the time period of criminal prosecution.

2. The procedure prescribed in Paragraphs 2 to 4 of Article 194 of this Code shall apply to the submission of the said motion, its resolution, as well as to the transmission and appealing of the respective decision.

3. The time period of criminal prosecution shall also be resumed when the Superior Prosecutor revokes by his decision the decision on suspending the time period of criminal prosecution.

Article 196. Procedure for Non-Institution or Termination of Public Criminal Prosecution

1. If any of the grounds precluding criminal prosecution specified in Article 12 of this Code exist, the Investigator shall submit a motion for non-institution or termination of 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 charges is substantiated within the course of preliminary investigation, the Investigator shall submit a motion to the Supervising Prosecutor for termination of the criminal prosecution in that respect. Based on such motion, the Supervising Prosecutor shall render a decision on granting or rejecting it.

3. The Supervising Prosecutor may render a decision on non-institution or termination of criminal prosecution also of his own motion, based on the materials of the proceedings.

4. The decision shall state the reason and the ground for initiation of criminal proceedings, the ground for institution of criminal prosecution against the person, the factual circumstances established within the course of preliminary investigation, the evidence confirming them, the legal grounds and substantiation for non-institution or termination of criminal prosecution, the issues related to termination of the applied restraint measure, disposal of the attached or seized property and of physical evidence, as well as the procedure and the time frames for appealing this decision.

5. In case of non-institution or termination of criminal prosecution based on the grounds envisaged by Clauses 1 to 9 of Paragraph 1 of Article 12 of this Code, the decision shall be free from any wording that casts doubt on the innocence of the person.

6. After receiving the decision of the Supervising Prosecutor on non-institution or termination of criminal prosecution, the Investigator shall promptly serve the copies thereof upon the private participants in the proceedings, upon the person who submitted the crime report, as well as upon the person to the legitimate interests of whom the decision concerns. The Investigator shall also explain to the mentioned persons the procedure for becoming familiarized with the materials of the proceedings, as envisaged by Article 200 of this Code.

7. The persons envisaged in Paragraph 6 of this Article may appeal the decision on non-institution or termination of criminal prosecution to the Superior Prosecutor, within 15 days upon the receipt thereof. The Superior Prosecutor, within a 15-day period upon the receipt of the appeal, shall render a decision on granting or rejecting it.

8. In case of granting the appeal, the Superior Prosecutor shall revoke the challenged decision and provide the Supervising Prosecutor with the instructions necessitated by the situation. The Investigator shall promptly serve the copy of the decision of the Superior Prosecutor upon the persons envisaged in Paragraph 6 of this Article clarifying for them in writing the procedure and time frames for appealing the decision.

9. In case of rejecting the appeal, the Superior Prosecutor shall confirm by his decision the lawfulness and the substantiatedness of the challenged decision, specifying the procedure and the time frames for appealing it to the Court. The Superior Prosecutor shall promptly send the decision on rejecting the appeal to the person who brought it.

10. The person, who brought the appeal, may appeal the decision on non-institution or termination of criminal prosecution to the Court, in accordance with the procedure and in time frames specified in Article 300 of this Code.

11. If the Court grants the appeal, the competent Prosecutor shall institute criminal prosecution or renew it. If the Court grants the appeal after the indictment, together with the materials of the proceedings, has been transmitted to the competent Court, then from the moment of institution or renewal of criminal prosecution, by virtue

of law, it is deemed that a new set of proceedings has been separated from the criminal case pending court proceedings. The competent Prosecutor shall compose a protocol on it and shall, on the basis thereof, request from the Court the copies of the materials of the criminal case concerning the freshly instituted or renewed criminal prosecution.

12. The decision on non-institution or termination of criminal prosecution shall enter into legal force from the moment of expiration of the time frame envisaged by this Code for the appeal, or, in case of bringing an appeal, from the moment of its final confirmation.

Article 197. Discretionary Criminal Prosecution

1. The Supervising Prosecutor shall be authorized not to institute criminal prosecution or to terminate the instituted criminal prosecution, if all the conditions specified by Paragraph 1 of Article 81 of the Criminal Code of the Republic of Armenia exist.

2. The Supervising Prosecutor shall render the decision on non-institution or termination of criminal prosecution in the case prescribed by Paragraph 1 of this Article of his own motion, based on the materials of the proceedings or upon the motion of the Investigator.

3. The requirements set under Paragraph 4 of Article 196 of this Code and the procedure envisaged by Paragraphs 6 to 12 of the same Article shall be respectively applied to the content, transmission and appeal of the decision on non-institution or termination of criminal prosecution rendered in the case envisaged by Paragraph 1 of this Article.

Article 198. Renewal of Non-Instituted or Terminated Criminal Prosecution

1. The decision of the Supervising Prosecutor on non-institution or termination of criminal prosecution that has not been appealed, may be revoked by the Superior Prosecutor on the ground of being unlawful or unsubstantiated within three months upon its entry into legal force.

2. The decision of the Supervising Prosecutor on non-institution or termination of criminal prosecution and the decision of the Superior Prosecutor confirming such decision, may be revoked, on the ground of being unlawful or unsubstantiated, by the Prosecutor General of the Republic of Armenia or his Deputy within three months upon rendering such decision, unless such decision has not been subjected to judicial review.

3. Upon the expiration of the time frames specified in Paragraphs 1 and 2 of this Article, the decision of the Supervising Prosecutor on non-institution or termination of criminal prosecution and the decision of the Superior Prosecutor confirming it may be revoked exclusively by the Prosecutor General of the Republic of Armenia on the basis of a new circumstance or a newly discovered circumstance, unless such decisions have not been subjected to judicial review. The procedure envisaged by Article 405 of this Code shall be applied *mutatis mutandis* to those proceedings.

4. If the decisions envisaged by this Article are revoked, the criminal prosecution shall be instituted or renewed, and the Investigator shall promptly serve the copies of the decisions upon the private participants in the proceedings, explaining to them in writing the procedure and the time frames for appealing such decisions in Court as specified by Article 196 of this Code.

CHAPTER 27. COMPLETION OF PRELIMINARY INVESTIGATION

Article 199. Completion of Preliminary Investigation by Composing an Indictment

1. If the Investigator, having assessed all the evidence collected within the pre-trial proceedings, reaches the conclusion that conviction of the Accused by a competent Court for the crime attributed to him is most probable, he shall notify the private participants in the proceedings in writing about the completion of the preliminary investigation and shall inform them about the place, time and sequence of becoming familiarized with the materials of the proceedings, at the same time starting composing the indictment.

2. The Investigator shall also clarify to the private participants in the proceedings in writing that, after transmission of the materials of the proceedings to the Court, they may submit their motions to the competent Court.

3. If as a result of evidentiary actions or operative-intelligence measures performed within the course of preliminary investigation information has been gathered on persons who are not private participants in the proceedings, then the Investigator shall inform them in writing about the place and time of becoming familiarized with the materials of the proceedings that contain such information, except for the case when new criminal proceedings have been initiated in connection to that information.

4. Prior to notifying about the completion of the preliminary investigation, the Investigator shall take measures to terminate the ongoing undercover investigative actions and operative-intelligence measures and to attach their results to the criminal case file.

Article 200. Procedure for Becoming Familiarized with the Materials of the Proceedings Prior to Composing an Indictment

1. The Investigator shall present the materials of the proceedings to the Accused, his Legal Representative and the Defence Counsel for familiarization in all cases, and to the other private participants in the proceedings, as well as to the persons envisaged by Paragraph 3 of Article 199 of this Code - upon their written request.

2. The materials of the proceedings shall be presented for familiarization in numbered pages accompanied by the list of the documents contained in each volume, in the form of one or more bound volumes. The physical evidence and the attachments to the protocols of the evidentiary actions kept with the materials of the proceedings shall be presented for familiarization as well. If the materials of the proceedings consist of several volumes, all the volumes shall be presented at same time.

3. The electronic version of the materials of the proceedings shall be provided to the person becoming familiarized with the materials of the proceedings upon his written application.

4. A person who is becoming familiarized with the materials of the proceedings shall be entitled to write out information from the documents contained in such materials, to listen to the audio recordings, to watch the videos and audio-visual recordings, to look at the pictures attached to the protocols, to study and take photos of the physical evidence using proper equipment.

5. In case of familiarizing with the information containing secrecy preserved by law, the Investigator shall warn about the prohibition of the disclosure thereof as well as the liability prescribed for doing so, in respect of which the respective persons shall give their signature, and a protocol shall be composed.

6. The participants in the proceedings shall be provided with reasonable time for becoming familiarized with the materials of the proceedings.

Article 201. Protocol on Having a Person Familiarized with the Materials of the Proceedings

1. The fact of becoming familiarized with the materials of the proceedings shall be documented in a protocol composed by the Investigator, which shall be signed by the Investigator and the person who became familiarized with the materials of the proceedings.

2. The protocol shall specify the place and the time of composing it, the number of the volumes of the materials of the proceedings presented for familiarization and the number of pages in each volume, the physical evidence, the attachments to the protocols of the evidentiary actions, the place, beginning and the end (duration) of becoming

familiarized with the materials of the proceedings, as well as the fact on whether copies of the materials of the proceedings have been made.

Article 202. The Indictment and the Attachments thereto

1. The indictment shall consist of introductory, descriptive, reasoning and conclusive parts.

2. The introductory part of the indictment shall specify the time and place of composing it, the name, surname, and position of the person composing it, and the sequential number of the proceedings.

3. The descriptive part of the indictment shall state the reason and the ground for initiating criminal proceedings, the date of and the ground for instituting criminal prosecution against the Accused, and the factual circumstances established within the course of preliminary investigation, including the circumstances characterizing the Accused and the Victim.

4. The reasoning part of the indictment shall analyse the evidence confirming the guilt of the Accused, the arguments brought in defence of the Accused, the actions taken to verify them, as well as the evidence refuting such arguments.

5. The conclusive part of the indictment shall specify the name, surname, patronymic of the Accused, the date (year, month, day) and the place of his birth, the 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 imputed to him (the Article, or the Paragraph or the Clause of the Article of the Criminal Code that prescribes the crime for the commission of which the Accused is charged).

6. The indictment shall be signed and sealed by the Investigator.

7. The Investigator shall attach to the indictment the statements: on the status of all the persons involved in the proceedings and the relevant personal data, on the list of the evidence submitted by the prosecution party to the Court for examination, on the location of physical evidence, on the measures taken for securing the potential confiscation of property or the potential property claim, on the Court expenses made, on the compulsory measures applied, and on the time periods of criminal prosecution.

Article 203. Transmission of the Indictment to the Supervising Prosecutor

1. The Investigator shall transmit the indictment, along with the materials of the proceedings, to the Supervising Prosecutor no later than 15 days prior to the expiration of the maximum time period of criminal prosecution envisaged by this Code for the Accused in question.

2. The materials of the proceedings shall be transmitted to the Supervising Prosecutor in numbered pages accompanied by the list of the documents contained in each volume, in the form of one or more bound volumes. The physical evidence and the attachments to the protocols of the evidentiary actions kept with the materials shall be presented to the Prosecutor as well.

Article 204. Circumstances Subject to Verification based on the Materials of the Proceedings Received with an Indictment

1. The Supervising Prosecutor, as a result of studying the materials of the proceedings received with an indictment, shall determine whether:

1) There is sufficient evidence to prove in the Court the guilt of the Accused in committing the act attributed to him;

2) The charges brought against the Accused include all the crimes allegedly committed by him;

3) Criminal prosecution has been instituted in relation to all the persons who participated 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 the time period of criminal prosecution, terminating criminal prosecution or terminating the proceedings;

6) The restraint measure applied in relation to the Accused or the non-application thereof is grounded;

7) Necessary measures have been taken to secure the potential confiscation of property, the potential property claim, and the potential court expenses;

8) A comprehensive and impartial preliminary investigation has been conducted;

9) The other rules of this Code specifying the procedure for conducting preliminary investigation have been respected;

10) The indictment meets the requirements of Article 202 of this Code.

Article 205. Decision of the Supervising Prosecutor based on the Materials of the Proceedings Received with an Indictment

1. The Supervising Prosecutor, within seven days upon the receipt of the materials of the proceedings with an indictment, shall take one of the following decisions:

1) Decision on approving the indictment;

2) Decision on re-composing the indictment, if, as a result of studying the materials of the proceedings, determines that certain facts need to be removed from the charges or that the legal assessment of the act attributed to the Accused needs to be modified for the benefit of the Accused without essential change of the initial facts;

3) Decision on remitting the materials of the proceedings to the preliminary investigation body, if, as a result of studying the materials of the proceedings, determines that it is necessary to continue the preliminary investigation, or to terminate the proceedings, or to suspend the time period of criminal prosecution or to compose a new indictment.

2. If as a result of studying the materials of the proceedings he determines that the charges presented to the Accused need to be supplemented or modified with the facts that are essentially different from the initial ones, the Supervising Prosecutor shall remit the materials of the proceedings to the preliminary investigation body for continuing the preliminary investigation.

3. The Supervising Prosecutor who received the materials of the proceedings with an indictment shall be authorized to terminate or substitute the restraint measure applied in relation to the Accused or, if no restraint measure has been applied, take measures for the application of a restraint measure.

4. In case of approving or re-composing the indictment, the Supervising Prosecutor is authorised to render a decision on reducing or supplementing the list of the evidence of the prosecution party being presented to the Court for examination.

Article 206. Transmission of the Materials of the Proceedings to the Court

1. In case of approving or re-composing the indictment, the Supervising Prosecutor, by his decision, shall transmit the indictment, together with the materials of the proceedings, to the competent Court.

2. If the Accused is detained, then the indictment, together with the materials of the proceedings, shall be transmitted to the Court no later than 15 days prior to the expiration of the detention period of the Accused.

3. The Supervising Prosecutor shall immediately notify the private participants in the proceedings in writing about the transmission of the materials of the proceedings to the Court, by duly sending to them the approved copies of the indictment and of the attachments thereto. If the indictment or the attachments thereto have been amended, then only the latest version of the indictment or its attachments shall be presented, attaching to them the copy of the respective decision of the Prosecutor.

Article 207. Completion of Preliminary Investigation by Termination of Criminal Proceedingss

1. The Investigator, considering that any of the grounds envisaged by Paragraph 1 of Article 13 of this Code exists, shall notify in writing the private participants in the proceedings, as well as the persons specified in Paragraph 3 of Article 199 of this Code about completion of preliminary investigation, and inform them about the place, time and sequence of becoming familiarized with the materials of the proceedings. Prior to notifying about the completion of preliminary investigation, the Investigator shall take measures to terminate the ongoing undercover investigative actions and operative-intelligence measures and to attach the results thereof to the materials of the proceedings.

2. The materials of the proceedings shall be presented for familiarization upon a written request of the persons entitled to it. The procedure specified in Paragraphs 2 to 6

of Article 200 and in Article 201 of this Code shall apply to the process of becoming familiarized with the materials of the proceedings.

3. The private participants in the proceedings, after becoming familiarized with the materials of the proceedings, shall be entitled to submit motions to perform new procedural actions within 3 days following the composing of the protocol on becoming familiarized with the materials.

4. If no motions are submitted or the appeal brought against the decision of the Investigator on not granting a motion is rejected by the Supervising Prosecutor, the Investigator shall render a decision on termination of proceedings. The decision of the Supervising Prosecutor may be appealed within the framework of appealing the decision on termination of proceedings.

5. The decision on termination of criminals proceedings shall specify the reason and the ground for initiation of criminal proceedings, the factual circumstances established within the course of preliminary investigation, the evidence confirming such circumstances, the legal grounds and substantiation for termination of criminal proceedings, the issues related to the disposal of the attached or seized property and of the physical evidence, as well as the time frames and the procedure for appealing the decision.

6. The Supervising Prosecutor, within seven days upon the receipt of the decision on termination of criminal proceedings, shall approve it or render a decision on remitting the materials of the proceedings to the preliminary investigation body, if he determines that the preliminary investigation needs to be continued.

7. The procedure envisaged by Paragraphs 6 to 9 of Article 196 of this Code shall apply to providing the decision on termination of criminal proceedings and to bringing the appeals against such decision.

8. If the criminal proceedings are terminated on the grounds specified in Clauses 4 or 5 of Paragraph 1 of Article 13 of this Code, the Investigator shall also explain to the interested person the procedure envisaged by Chapter 54 of this Code for initiation of private prosecution proceedings.

9. The person, who has brought the appeal, may appeal the decision to terminate criminal proceedings to the Court in the procedure and within the time frames prescribed by Article 300 of this Code.

10. If the Court grants the appeal, the preliminary investigation shall continue.

11. The decision on termination of criminal proceedings shall enter into legal force upon expiration of the time period for the appeal specified in this Code, and, in case of being appealed, upon the moment of its final approval.

12. The decision on termination of criminal proceedings, which has entered into legal force, may be revoked by the decision of the Superior Prosecutor, provided that such decision has not been subjected to judicial review. In that case, the proceedings shall be renewed.

13. The ambiguities of the decision on termination of criminal proceedings, which has entered into legal force, shall be resolved by the decision of the Supervising Prosecutor, unless resolving thereof changes the substance of the decision. The issues to be resolved are those regarding retention or disposal of evidence, attachment of property, allocation of procedural expenses, unless they have been resolved or clearly resolved by the decision on termination of criminal proceedings.

SECTION 7. THE EVIDENTIARY ACTIONS

CHAPTER 28. GENERAL RULES ON THE PERFORMANCE OF INVESTIGATIVE ACTIONS

Article 208. The Types of Investigative Actions

1. The following shall be the investigative actions:

1) Questioning;

2) Confrontation;

3) Checking testimony on the spot;

4) Examination;

5) Inspection;

6) Experimentation;

7) Recognition;

8) Request for information;

9) Taking objects or documents;

10) Search;

11) Seizure;

12) Exhumation.

Article 209. Grounds for the Performance of Investigative Actions

1. The investigative action may be performed only in a case when there are sufficient grounds to assume that it may result in obtaining of evidence significant for the proceedings in question.

2. The following may be performed solely on the basis of a decision of the Investigator:

1) Initial examination of the home that is the incident scene;

2) Exhumation;

3) Search, with the exception of the search of the home, digital search and, in cases envisaged in this Code, a search of the person;

4) Seizure, with the exception of the seizure performed in the home and of the seizure of the mail or other forms of correspondence, or seizure of documents and objects containing medical, notary, banking or other related secrecy.

3. The following may be performed solely upon the permission of the Prosecutor:

1) request of information, containing data defined under paragraph 3 of Article 232 of this Code;

2) seizure of documents containing state secrecy.

4. The following may be performed solely on the basis of a decision of the Court:

1) Search and seizure in the house;

2) Examination of the house that is not the incident scene and the subsequent examination of the home that is the incident scene;

3) Digital search;

4) Seizure of mail and other correspondence;

5) Seizure of documents and objects, containing medical, notary, banking or related secrecy;

6) Seizure of the digital data contained in the electronic devices or media.

Article 210. Participants in the Investigative Action

1. The investigative action shall be performed by the Investigator who is authorized to perform an investigative action in the proceedings in question.

2. For the purpose of obtaining professional assistance during the performance of the investigative action, the Investigator shall be authorized to involve an Expert in the performance of the investigative action. The external inspection, exhumation, examination of a corpse of a human being or of an animal, recognition of a corpse of a human being or of an animal shall be performed with participation of the Expert.

3. To ensure the effectiveness of the investigative action, the Investigator shall be entitled to involve also the private participants in the proceedings, as well as the persons supporting the proceedings.

4. To ensure the normal performance of the investigative action, the Investigator shall be entitled to involve the employees of Inquiry Body.

5. When the audio-visual recording of the investigative action, subject to mandatory audio-visual recording under the Paragraph 3 of Article 214 of this Code, is objectively impossible, the Investigator shall involve at least two Attesting witness (except for questioning and confrontation), specifying in the Protocol the circumstances confirming the impossibility of not conducting audio-visual recording.

6. The same Attesting Witness may not participate in more than one investigative action performed during the same proceedings, except for the cases when the investigative action in question immediately succeeds another evidentiary action that has been performed with participation of that Attesting Witness.

Article 211. General Safeguards for the Protection of the Rights of Participants in the Investigative Action

1. The performance of an investigative action shall be prohibited from 22:00 to 7:00, unless its postponement may reasonably cause loss or damage of the evidence expected as a result of such investigative action.

2. Prior to the beginning of the investigative action, the Investigator shall check the identity of all the participants involved 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 illegal 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 impermissible.

4. The presence of persons of the opposite sex in an investigative action that is 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 or audio-visually recorded or photographed.

5. Publicizing of the legally preserved secrecy, which became known during an investigative action, shall be prohibited. The Investigator shall be obliged to warn the

participants of the investigative action of the impermissibility of publicizing the information mentioned in this Paragraph, which became known to them during the investigative action, and the liability prescribed for such publicizing.

6. The process and the results of the investigative action shall be reflected in a protocol that shall be composed during the investigative action or immediately upon its completion, in accordance with the procedure envisaged by Article 215 of this Code.

Article 212. Peculiarities of the Investigative Action Performed with Participation of a Minor, an Incapacitated Person or a Person who Has Mental Health Issues

1. An investigative action with participation of a minor, an incapacitated person or a person who has mental health issues shall be performed with the involvement of Psychologist, qualified in accordance with the procedure established by the Government. The Legal Representative of the minor, the incapacitated person or the person who has mental health issues shall be entitled to participate in the investigative action with the participation of the minor, the incapacitated person or a person who has mental health issues.

2. Prior to the beginning of the investigative action, the rights to participate in the investigative action and to state remarks shall be explained to the Legal Representative and the Psychologist. The right to ask questions shall also be explained to the Legal Representative and the Psychologist, participating in an investigative action that is connected with giving a testimony, besides the Psychologist shall also be provided with explanation of the right to present professional recommendations. The Investigator is entitled to remove the questions posed or reject the recommendations presented, but, in any event, they shall be included in the protocol.

3. Upon the recommendation of the Psychologist and in view of protection of the legitimate interests of a minor, an incapacitated person or a person who has mental health issues, the investigative action shall be performed in such circumstances (place, duration, the scope of participants, etc.) to ensure to the maximum the protection of their best interest.

4. Upon the recommendation of the Psychologist and in view of protection of the legitimate interests of a minor, an incapacitated person or a person who has mental health issues, prior to the commencement of an investigative action connected with giving a testimony, the Investigator shall compose the questions being posed to the minor and obtain the consent of the Psychologist.

5. Upon the recommendation of the Psychologist and in view of protection of the legitimate interests of a minor, an incapacitated person or a person who has mental health issues, the questions of Arrested Person, Accused or his Defence Counsel shall be posed to the minor after obtaining the consent of the Psychologist without immediate correspondence with the minor.

6. The minor who has not reached the age of 16, and is participating in an investigative action that is connected with giving a testimony, shall be provided with the explanation of his obligation on giving true testimony, but he shall not be warned of the criminal liability for both refusing of giving testimony and giving false testimony.

Article 213. Peculiarities of the Investigative Actions Performed with Participation of a Deaf or Numb Person or a Person who Suffers from a Severe Illness

1. An investigative action with participation of a deaf or numb person shall be performed with involvement of an Interpreter who is capable to communicate with such person.

2. An investigative action with participation of a person with mental health issues or who suffers from severe illness shall be performed only upon the written permission of a professionally competent doctor. Such permission may also provide for a requirement of performing such investigative action in the presence of a doctor, and such requirement shall be binding for the Investigator.

Article 214. Application of Technical Means during the Performance of the Investigative Action

1. In order to document the course and the results of an investigative action, to discover, document and take the traces of the crime and the physical evidence, the recordings may be made, photos may be taken, impressions and imprint stamps may be prepared and other technical means may be applied.

2. Prior to the use of the technical means, the Investigator shall in advance inform the persons participating in the investigative action thereabout as well as the Investigator shall take measures to check if the applied technical means function properly.

3. The investigative actions envisaged by Paragraph 1 of Article 208 of this Code (except for request for information and taking objects or documents) are subject to mandatory audio-visual recording, except when the audio-visual recording is objectively impossible.

4. The audio-visual recording shall be performed from the moment of commencement of the investigative action till the end thereof without interruption, except when there is an unpredictable technical malfunction or it is objectively impossible for other reasons. If the audio-visual recording is interrupted, the performance of investigative action shall be interrupted as well, and the reasons shall be stipulated in the separate protocol composed on that ground. The performance of the investigative action shall continue from the moment of recommencement of the audio-visual recording. Before that, the Investigator shall take measures to ensure the effectiveness and the normal course of investigative action. When audio-visual recording is applied, the completeness, visibility (coverage area, lighting etc.) and audibility shall be guaranteed. The audio-visual recording may not be edited or changed in any other way.

5. The protocol of the investigative action performed via audio-visual recording may not be used in the proving process without the electronic medium of respective investigative action.

6. In those exceptional cases when the presence of the person in the performance of the investigative action is impossible in view of his health condition or being in another place or when there is a need for protection the security of such person or

when there is need for protection of the legitimate interests of a Minor Victim or Witness and the interest of justice so require, the investigative action may be performed via technical means of telecommunication (via video conference).

7. During an investigative action performed via video conference, it shall be guaranteed that the Investigator and the participants in the investigative action, who are located in a different place, clearly hear and see one another.

8. Prior to the beginning of the investigative action performed via video conference, the Investigator shall announce:

1) The place, year, month, day, and time of performing the investigative action, as well as information about the proceedings in which such investigative action is being performed;

2) The name, surname, and the position of the Investigator performing the investigative action;

3) The name, surname, and the position of the competent person who is located in another place and is supporting the performance of the investigative action;

4) The technical means applied during the investigative action.

9. 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 against the procedure and the course of performance of the investigative action, and if any, shall ask them to present such objections aloud.

10. The protocol of the investigative action performed via video conference may not be used in the proving process without the electronic medium carrying the bilateral audio-visual recording of the respective investigative action.

11. The description and the criteria of the technical means applied in the investigative action as well as the procedure of the use of the technical means shall be defined by the Government.

Article 215. Protocol of the Investigative Action

1. The protocol of the investigative action shall be composed in compliance with the requirements prescribed under Article 8 of this Code.

2. The protocol of investigative actions performed without audio-visual recording shall indicate:

1) The type of the investigative action, the place (address) of performing the investigative action, the year, month, day, and the time of its commencement and completion, with a precision of up to a minute;

2) The position, the name and the surname of the person who composed the protocol;

3) The status, name, surname, patronymic, and, if necessary, the address and other personal data of each person participating in the investigative action;

4) Records about the clarifications of the essence and procedure of performance of given investigative action as well as about the explanations to the participants in the investigative action about their rights (including the rights of making announcements and remarks in relation to the protocol and of requesting corrections and supplements), responsibilities, and the consequences of a failure to fulfil them, which shall be confirmed by the signatures of the participants in the investigative action;

5) The course of the actions conducted, including the order of their actually occurrence and detailed description of the results;

6) The circumstances established in the process of the action;

7) If exist, the remarks and announcements of the participants and the corrections and supplements made upon their request;

8) In case of application of technical means, their description, as well as the information that the participants in the investigative actions are warned about the use of technical means, which shall be confirmed by the signatures of the participants in the investigative action;

9) If exist, the annexes attached to the protocol.

3. The protocol of the investigative action performed via audio-visual recording or video conference shall describe only the essence of the action, short content and the

main results. The relevant other information prescribed in Paragraph 2 of this Article as well as the fact of the performance of the actions shall be documented only via audio-visual recording.

4. The protocol shall be presented to the persons who participated in the investigative action for familiarization.

5. The protocol shall be signed by the Investigator and the persons, participating in the investigative action, located in the same place with the Investigator. The corrections and supplements to the protocol shall be signed by the person initiated them.

6. In case of refusal of any of the participants in the investigative action to sign the protocol, such person shall be given an opportunity to explain and state the reasons for such refusal. If such person refuses to state in the protocol the reasons for refusing to sign it, the Investigator shall make a respective record on this in the protocol which shall be certified by the signature of the Investigator as well as the signatures of the Attorney, participating in the investigative action.

7. If a participant in the investigative action is deprived of an opportunity to sign the protocol personally due to a mental health issue, physical or mental handicap, the protocol shall be presented or announced to such person for familiarization by the Investigator and the Attorney participating in the investigative action, which shall sign to confirm the veracity of the content of the protocol and the substantiation on impossibility of having it signed.

8. If in the cases specified in Paragraphs 6 and 7 of this Article, no Attorney or Attesting Witness participates in the investigative action, the relevant facts shall be confirmed under the procedure envisaged by Paragraph 5 of Article 190 of this Code.

9. For certain investigative actions, this Code may prescribe additional requirements concerning their protocols.

Article 216. Attachments to the Protocol of the Investigative Action

1. The following numbered attachments shall be attached to the protocol of the investigative action:

1) The objects, documents, or other materials taken during the investigative action;

2) The electronic media, video tapes, audio recordings, photographic negatives, and photographs documenting the course of performance and the results of the investigative action;

3) The statements, charts, sketches, impressions, and trace stamps composed or prepared during the investigative action.

2. The materials mentioned in Clause 1 of Paragraph 1 of this Article shall be described in detail in the respective protocol, packaged, and sealed.

3. The materials mentioned in Paragraph 1 of this Article are the integral part of the protocol of the investigative action and may not be used without a protocol, or when the integrity of data contained therein has been breached.

CHAPTER 29. INVESTIGATIVE ACTIONS

Article 217. General Terms 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 the person cannot appear before the body conducting proceedings for a good reason, the questioning shall be performed at the place where the questioned person is located.

3. The questioning may not last longer than 4 consecutive hours, and the questioning of a minor, as well as the person with mental health issues or a person who suffers from severe illness - longer than 2 consecutive hours. The questioning may be continued after giving the questioned person at least a one-hour break needed for having rest and food. The total duration of the questioning per day may not exceed 8 hours, and in case of a minor or a person with mental health issues or a person suffering from a severe illness - 6 hours.

4. Based on a medical statement, the questioning shall be performed within a shorter time period than prescribed by this Article.

5. The questioning shall begin with posing questions to the questioned person. After answering the questions, the questioned person shall also be offered to provide information which in his opinion may be of significance for the proceedings. If the Attorney, Authorized Representative, Defence Counsel, Legal Representative or Psychologist participate in the questioning, then they shall be entitled to ask questions only after the Investigator has asked all his questions.

6. During the questioning, evidence may be presented to the person questioned with a view of having him familiarized with them or with the information contained therein. Presentation of evidence during the questioning may not substitute the recognition.

7. Peculiarities of questioning performed under the procedure of deposition of testimony and of protocolizing are prescribed by Article 309 of this Code.

Article 218. Questioning of the Witness

1. The Witness may be questioned about any circumstance of significance to the proceedings, including about the Accused, the Victim, or other Witnesses.

2. The 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 proceedings do not communicate with one another prior to the completion of the questioning.

3. Before the questioning, the Investigator shall ascertain the identity of the Witness, inform him within the framework of which proceedings 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 responses, and of the criminal liability for refusing 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 the Witness has appeared for questioning together with an Attorney, the Attorney shall be entitled to participate in the questioning and give short-term consulting to the Witness about questions related to his status in presence of the Investigator. The Attorney shall ask questions to the Witness only upon permission of the Investigator and shall not be entitled to comment the answers of the Witness. In case of posing questions or performing actions that violate the rights of the Witness prescribed under this Code, the Attorney shall be entitled 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 ground of inviting an Attorney, except of the case when the Witness finds that he is actually suspected in the crime.

6. In a case when the Witness is an Accused in another proceedings that are related to the proceedings in which he is a Witness, or a judgment has entered into legal force in relation to him, the questioning of such Witness shall be performed under the rules prescribed for questioning of the Accused.

Article 219. Questioning of the Expert

1. The Expert may be questioned for the purpose of specifying or clarifying an opinion or conclusion presented by him, or in relation to the facts perceived by him when participating in the performance of the evidentiary or other procedural action.

2. Before the questioning, the Investigator shall ascertain the identity of the Expert, inform him within the framework of which proceedings he has been invited, and warn him of the obligation to provide truthful responses and of the criminal liability for refusing to give testimony or for giving false testimony. The Expert shall also be informed that testimony given by him may be used as evidence during the criminal proceedings.

Article 220. Questioning of the Victim

1. The questioning of the Victim shall be performed under the rules envisaged by Paragraphs 1 to 3 of Article 218 of this Code.

2. After completing the questions, the Victim shall be offered to communicate also the circumstances which, in the Victim's opinion, may be of significance to the proceedings.

3. If the Victim has appeared for questioning together with his Authorized Representative, the latter shall be entitled to participate in the questioning and give short-term consulting to the Victim about questions related to his status in presence of the Investigator. The Authorized Representative shall be entitled to pose questions to the Victim, but shall not be entitled to comment on his answers. The Investigator shall be empowered to remove 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 prescribed under this Code, the Authorized Representative shall be entitled to make statements that shall be incorporated in the protocol of the questioning.

4. In a case when the Victim also has the status of the Accused in the same proceedings, his questioning shall be performed under the rules prescribed by this Code for questioning of the Accused.

Article 221. Questioning of the Accused

1. The Accused may be questioned in relation to charges brought against him or any circumstance of significance to the proceedings.

2. The Investigator shall be obliged to question the Accused within 48 hours upon bringing of the charges against him. The Accused shall be questioned separately from the other persons.

3. Before the questioning, the Investigator shall clarify to the Accused his right to be questioned with participation of a Defence Counsel and provide the Accused with 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, shall clarify that exercise of such right may not be construed to his detriment, as well as shall 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 certified by the signature of the Accused.

4. Before posing questions, the Investigator shall determine whether the Accused pleads guilty under the charges brought against him. 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.

5. If his Defence Counsel also participates in the questioning of the Accused, then the Defence Counsel shall be entitled to give short-term consulting to the Accused about questions related to his status in presence of the Investigator. The Defence Counsel shall be entitled to pose questions to the Accused, but shall not be entitled to comment on his answers. The Investigator shall be empowered to remove the questions of the Defence Counsel, but, in any event, they shall be reflected in the protocol of the questioning. In case of posing questions or performing actions that violate the rights of the Accused prescribed under this Code, the Defence Counsel shall be entitled to make statements that shall be incorporated in the protocol of the questioning.

6. After the first questioning, the Accused may be questioned for the purpose of clarifying additional circumstances.

Article 222. Questioning of the Arrested Person

1. A person arrested on the ground envisaged by Clause 1 of Paragraph 1 of Article 108 of this Code may be questioned about the act attributed to him, as well as any circumstance of significance for the proceedings.

2. Questioning of the arrestee shall be conducted according to the rules specified in Article 221 of this Code, taking into consideration the peculiarities envisaged by this Article.

3. Before the questioning, the arrested person shall be given an opportunity, if he so wishes, to have a separate, confidential, and unhindered meeting with his Defence Counsel. In case of necessity to perform other procedural actions with the participation of the arrestee, the Investigator may limit the duration of such a meeting, giving an advance

notice thereof to the arrestee and his Defence Counsel. In any event, duration of a meeting with the Defence Counsel may not be limited more than 2 hours.

4. In case of a failure by the Defence Counsel to appear at the questioning of the arrested person, a Defence Counsel shall be appointed in the procedure specified in Article 45 of this Code, which in itself does not limit the participation of the formerly involved Defence Counsel in the proceedings.

Article 223. The Protocol of the Questioning

1. The testimony of the questioned person shall be written down in the first person and, if possible, *ad verbum*. The questions and the answers to them shall be written down in the sequence in which they were posed during the questioning. The protocol shall indicate all the questions, including those that were removed by the Investigator, or which the questioned person refused to answer. The reason and the ground for refusing to give testimony or to answer the questions shall be stated in the protocol.

2. The questioned person shall be entitled to write down his testimony himself, about which the Investigator shall make a record in the protocol. After becoming familiarized with the testimony, the Investigator may ask additional questions. The questions and the responses given shall be reflected in the protocol.

3. If during the questioning, physical evidence or extra-procedural documents, are presented to the person questioned or if the protocols of other evidentiary actions are publicized, or if the materials of audio, video or audio-visual recording are reproduced, these shall be indicated in the protocol of the questioning. The protocol shall reflect the testimony of the person questioned in relation thereto.

4. If during the questioning, the questioned person has taken notes or prepared layouts, charts, or drawings, they shall be attached to the protocol with the signature of the questioned person, and it shall be indicated in the protocol.

5. Upon the completion of the questioning, the protocol shall be presented to the questioned person and other participants in the questioning for familiarization, or the Investigator shall publicize the protocol upon their request, indication of which shall be

made in the protocol. Statements to make supplements or corrections to the protocol shall be included in the protocol.

6. The questioned person and other participants in the questioning shall sign at the end of the protocol to certify the fact that they have become familiarized with the testimony and that the information recorded therein is accurate. The questioned person shall also sign at the bottom of each page of the protocol.

7. If the questioning is performed via audio-visual recording, the statements including the questions and answers as well as other actions performed during the questioning shall be documented only via audio-visual recording.

8. One of the electronic medium of the questioning shall be sealed and may be opened only in the court, while the other medium shall be used in pre-trial stage. The electronic medium of the audio-visual recording and, if exist, the signed paper-based copy of the statements, based on the audio-visual recording composed by the Investigator, shall be attached to the Protocol. The paper-based copy of the testimony may be used in the evidentiary process insofar if that corresponds to the content of the audio-visual recording.

Article 224. Confrontation

1. Confrontation is the simultaneous questioning of two persons questioned earlier, in whose testimonies there are essential inconsistencies.

2. Confrontation shall be performed under the procedure defined by this Code for questioning, taking into consideration the peculiarities envisaged by this Article.

3. Before posing questions to the persons being confronted, the Investigator shall determine whether they know each other, and what kind of relations they have with one another. Thereafter, the Investigator shall ask the confronted persons questions clarifying the essential inconsistencies between their testimonies. After the Investigator has finished asking his questions, the confronted persons and, in cases prescribed by this Code, the persons that have the right to ask questions during the questioning, may pose questions to the persons being confronted.

4. Publicizing earlier testimony of the confronted persons shall be permitted once they have given testimony during the confrontation and once such testimony has been

written down in the protocol, and if the confronted person exercises his right to remain silent, as prescribed by this Code, then such publicizing shall be done after making indication thereabout in the protocol.

5. The confrontation protocol shall be prepared in accordance with the requirements of Article 223 of this Code.

Article 225. 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 who are questioned earlier, of their testimony at a place where the events described in such testimony have taken place.

2. Prior to the beginning of the checking testimony on the spot, the Investigator shall first offer to the person questioned earlier to show the place where the testimony will be checked, and, thereafter, to reproduce on the spot the testimony subject to checking, 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 at the same place simultaneously.

4. After protocolizing the results of checking testimony on the spot, in case of inconsistency between the earlier testimony and the results of its checking on the spot, the Investigator shall be empowered, for the purpose of determining the reason for the inconsistency, to perform supplementary questioning of the person who gave testimony.

Article 226. Examination

1. Examination is a visual studying of a site, building, vehicle, object, document, content of electronic or magnetic media device, animal, or a corpse of a human or of an animal for the purpose of determining circumstances of significance to the proceedings and discovering the traces of the alleged crime, and other physical objects.

2. Examination in the home, with the exception of the initial examination of an incident scene, may be performed only upon the appropriate decision of the Court.

3. During the examination, the objects subject to examination may be made accessible for visual observation via the use of technical means, and in addition, measurements of the examined site or of the particular objects may be taken, and the floor plans, layouts, and drawings may me composed. This fact shall be indicated in the protocol, and the composed standalone documents shall be attached to the protocol.

4. If possible, the examination of the site or the building, or the object within the territory thereof, or vehicle shall be performed in presence of the owner or his representative.

5. The examination of the corpse or the parts thereof shall be performed with participation of a professionally competent expert in the medical field. Unrecognized corpses shall be subject to photographing and fingerprinting.

6. During the examination of a publicly available computer software programme, websites, and automated data, the Investigator shall make computer copies of the examined objects, if necessary, prepare their paper-based copies, and indicate that in the protocol. Paper based copies, which are the result of documenting, (when it is possible and necessary for the proceedings) shall be signed by the participants of the examination and attached to the protocol along with the computer copies.

7. During the examination, the Investigator, himself or with the assistance of an Expert, shall take traces, objects, and documents, as well as other objects that can be of evidentiary significance. In any event, the Investigator shall take the objects or documents which are removed from circulation under the legislation of the Republic of Armenia, regardless of their connection to the given proceedings.

8. Examination of the objects discovered during the performance of other investigative actions shall be performed during such investigative actions, and the results of such examination shall be documented in the protocol of the respective investigative action.

Article 227. Inspection

1. Inspection is a visual studying performed for the purpose of determining the presence of traces of crime or special marks on the body of the Accused, the Victim, or the

Witness. The Investigator shall be empowered to perform the inspection, unless it requires a forensic medical expert examination.

2. In a case when the Investigator is not empowered to be present at the inspection accompanied with undressing, a professionally competent Expert in the medical field, upon the instruction of the Investigator, shall determine whether traces of crime or special marks are present on the body of the inspected person. The Expert shall state the results of such examination in a statement that shall be attached to the protocol in the form of an attachment.

Article 228. Experimentation

1. Experimentation is the performance of experiments and other research actions for the purpose of verification of any circumstance of significance to the proceedings.

2. The conditions of performing the experimentation shall be as close as possible to the circumstance being verified. To avoid a random outcome, the experiments and the research actions that constitute the content of experimentation substance may be performed several times.

Article 229. General Terms of Recognition

1. Recognition is the presentation of the person or the object for the perception of the Arrested Person, the Accused, the Victim, or the Witness with the purpose of determining the identity of such person or sameness of the object (object, document, animal or corpse).

2. Prior to the beginning of the recognition, the Investigator shall first question the recognizing person about the features of the person or the object being recognized, and about the circumstances under which the recognizing person had perceived such person or object.

3. Recognition shall not be performed, and recognition performed shall not be deemed lawful, if the recognizing person stated, while being questioned, the features that due to their uncertainty are insufficient for identifying the person or the object being recognized.

4. The repeat recognition shall be prohibited. Recognition shall not be performed also in cases, when the recognizing person has seen during the proceedings the person or the object that is subjected to recognition.

5. The recognition protocol shall contain a description of the person or object presented for recognition, as well as the features based on which the recognition was performed. In case of recognition by functional features or by voice, the audio-visual recording of the recognition shall also be attached to the protocol.

Article 230. 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. Recognition by functional peculiarities shall be performed with participation of three persons of the same sex having similar features with person subject to recognition and resembling each other's appearance as much as possible. Recognition by voice shall be performed with 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 presenting a person for recognition is impossible, or it is not expedient due to the alteration of the features of the person presented for recognition, the recognition may be performed with the use of photos or audio, video or audio-visual recordings of at least three other persons that resemble the person being recognized in terms of the relevant features.

4. Immediately before the beginning of the recognition, the Investigator shall offer 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 to explain the features by which he recognized such person.

5. On the initiative of the Investigator or a desire of the recognizing person, the recognition of the person may be performed outside of the sight of the person being recognized.

Article 231. Recognition of an Object, Document, Animal or Corpse

1. The object subject to recognition shall be presented to the recognizing person among at least three other similar objects. The recognition of the object, for which it is hard or impossible to obtain objects similar to the object being recognized, as well as the recognition of a document, animal, the corpse of a human or of an anmial, or of the separate parts thereof shall be performed based on one presented object.

2. Before presenting an object for recognition, it can be cleaned from dirt, rust, and other incidental substances if the result of recognition will not be affected negatively.

3. If a corpse of a human whom the recognizing person has seen alive is being recognized, then it shall be permitted to apply makeup on the deceased person. The recognition of the corpse or of the separate parts thereof shall be performed with participation of a professionally competent Expert in the medical field.

4. If the object being recognized has been presented to the recognizing person among the other objects, than the recognizing person is offered to point out the object that he is able to recognize.

5. The recognizing person shall be offered to explain the features by which he recognized the object, the document, the animal or the corpse.

Article 232. Request for Information

1. Request for information is a written application of the Investigator to the state or local self-government bodies, legal persons, or any organization possessing information about circumstances of significance to the proceedings.

2. The request for information shall be binding for its addressee, except for the cases in which:

1) The requested information constitutes a secrecy preserved by the law;

2) The person, carrying out media activities, or the journalist is not willing to release the information source;

3) When certain documents, objects, or other materials are requested;

4) When the person assumes that eventually this can be reasonably used or construed to his detriment or that of his spouse or close relative.

3. Upon the request of Investigator, confirmed by the Supervising Prosecutor, may be requested:

1) Fixed or mobile phone numbers, personal details of telephone number subscribers;

2) The necessary data for finding out the whereabouts of the persons communicators and their movement at the moment of starting telephone communications and during it;

3) The place, time and duration of connecting and disconnecting to the Internet, the personal data of user and subscriber, the telephone number from which he connects to the general telephone network, the Internet address including the IP address, the personalization data of the recipient of the Internet phone call.

4. Data prescribed by Clause 2 of Paragraph 3 of this Article may be requested;

1) In relation to a natural person concerning whom there are facts indicating the commission of an alleged crime;

2) In relation to Accused;

3) In relation to Victim or Witness if it is necessary to check the testimony given by them.

5. The requested information shall be provided within the time frame set by the Investigator in a form of a statement, which shall be attached to the protocol of the request for information.

Article 233. Taking of Objects or Documents

1. The taking of objects or documents is the attaching by the Investigator of the objects or documents of significance to the proceedings, which have been submitted by any person, to the materials of the proceedings. The Investigator shall be obliged to attach to the materials of the proceedings the objects and documents submitted by the Private participants in the proceedings.

2. For attaching an object or a document to the materials of the proceedings, a protocol shall be composed describing the object or the document submitted and stating the explanation of the submitting person about the circumstances in which he acquired it.

3. If the object or document is submitted during other investigative action, the information mentioned in Paragraph 2 of this Article shall be incorporated in the protocol of the respective investigative action, and the given object or document shall be attached to that protocol.

Article 234. General Terms of the Search

1. Search is a detecting action performed with the purpose of discovery of objects, substances, documents or other data of significance to the proceedings, as well as of the Accused who has absconded from the investigation, or the property subject to attachment or a corpse.

2. The legitimate owner of the object of the search or his representative shall be entitled to be present at the search, of which right they shall be informed by the body conducting proceedings. If the legitimate owner of the object of the search or his representative has expressed a desire to participate in the search, their presence cannot be hindered.

3. Prior to the beginning of the search, the Investigator shall be obliged to provide the legitimate owner of the object of the search or his representative with a copy of the decision on search, upon their request.

4. The decision on search shall contain a brief description of the alleged crime on the occasion of which it has become necessary to perform the search, as well as the object, data or person being searched for, and the time and the place of performing the search.

5. All the actions by the person performing the search shall be visible for the persons present at the search. The person present at the search and his representative shall be entitled to follow the actions of the Investigator, make statements which must be incorporated in the protocol.

6. When performing the search, the Investigator shall take measures to prevent damaging of the object of the search.

7. All the objects taken shall be presented to the participants of the search, packaged and sealed.

8. In addition to what has been indicated in the decision on search, the Investigator also shall take all those objects discovered in a result of the search which according to the legislation of the Republic of Armenia are removed from circulation or which are in illegal circulation, regardless of their connection to the given proceedings, as well as the objects which due to their nature, content, distinctive features or traces on them may be connected with this or another alleged crime.

Article 235. Search of the Home, Site, Buildings and Premises

1. The Investigator and the persons participating in the investigative action, based on the decision on search, shall enter the building or site where the search is to be performed.

2. If the persons indicated in Paragraph 2 of Article 234 of this Code are not present at the search, then it shall be performed in presence of a representative of the condominium or local self-government body.

3. A search in the home of the Accused or in the building or in the site that is under his ownership or possession, shall be performed in presence of the Accused, except for the cases when objective reasons hindering his presence exist or if in advance notification of the Accused of the search may reasonably lead to loss or damaging of the evidence sought to be obtained as a result of the search.

4. When performing the search, the Investigator shall be entitled to open locked homes, buildings and warehouses compulsorily, if the interested person denies opening them voluntarily about which shall be indicated in the protocol.

5. The Investigator shall be empowered to prohibit the persons present in the place of the search from leaving that place or communicating to each other or to other persons, till the completion of the search as well as to prohibit the entry of other persons in the place of search.

Article 236. Digital Search

1. The digital search is looking for the digital data contained in the electronic devices or media.

2. The data of significance to the proceedings shall be taken by making a copy on another medium by ensuring the integrity of the such data and the copies thereof.

3. In addition to what has been indicated in the decision on search, the Investigator also shall take all those objects which are discovered in a result of the search, regardless of their connection to the given proceedings, which due to their nature or content, may be connected with this or another alleged crime.

Article 237. Search of a Person

1. The search of a person shall be performed when there are sufficient grounds to assume that objects, substances 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 standalone decision:

1) The person suspected of a crime - at the moment of his *de-facto* deprivation of liberty for the purpose of bringing before the competent Body or the body conducting proceedings or immediately after bringing;

2) The Accused - at the moment of his *de-facto* deprivation of liberty in cases envisaged by this Code;

3) A person participating in the search performed in the home or other place, if, during such search, the grounds emerge for reasonably assuming that such person may be possessing objects, substances, or documents for the discovery of which such search is being performed, or the items that reasonably indicate the commission of the alleged crime.

3. In a case when the Investigator is not entitled to be present in a search of the person accompanied with undressing, the search for objects, substances, or documents related to the alleged crime in the clothes or on the body of the person being searched, by the instruction of the Investigator, shall be performed by a professionally competent Expert in the medical field or by an Investigator or Inquiry Officer of the same sex as the person being searched.

Article 238. Search Protocol

1. Everything that is taken during a search shall be indicated in the protocol of the investigative action, specifying precisely their quantity, size, weight, individual features, and other peculiarities.

2. If the searched object has been surrendered or the searched person has surrendered voluntarily, then such fact shall be indicated in the protocol. If attempts of destroying or concealing the searched or discovered objects, as well as attempts of absconding or hiding of the searched person have been made during the search, then such facts shall be indicated in the protocol.

3. If the search for objects, substances or documents during the search of a person, upon the Investigator's instruction, has been performed by another person, then the statement composed by such person on the results of the search shall be attached to the protocol.

4. The copy of the search protocol shall be handed to the legitimate possessor of the object of the search or the representative of such possessor in whose presence the search has been performed, or in case of their absence - to the representative of the condominium or local self-government body who participated in the search. The copy of protocol of the search of the person shall be handed to the person subjected to search upon his signature.

Article 239. Seizure

1. Seizure is the taking of certain objects, substances, digital data 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. The procedure of seizing documents containing state secrecy shall be agreed upon with the head of the respective state body.

3. Seizure of the mail or other correspondence may be performed if the respective correspondence is related to:

1) The natural person concerning whom there are facts indicating the commission of an alleged crime;

2) The Accused;

3) The natural person in relation to which there is a reasonable assumption that the Accused directly and regularly has communicated with him or the Accused reasonably has the chance to communicate with him;

4) The legal person in relation to which there is reasonable assumption that its activities fully or in the relevant part are managed, controlled or otherwise *de facto* directed by the person stipulated in the Clauses 1 or 2 of this Paragraph.

4. Documents or objects containing banking or related secrecy may be seized only in cases when they relate to:

1) The natural person concerning whom there are facts indicating the commission of an alleged crime;

2) The Accused;

3) The natural person in relation to which there is a reasonable assumption that direct connection exists between him and the person stipulated in the Clauses 1 and 2 of this Paragraph and the documents or objects containing banking or related secrecy immediately are related to those facts;

4) The legal person in relation to which there is reasonable assumption that its activities fully or in the relevant part are managed, controlled or otherwise *de facto* directed by the person stipulated in the Clauses 1 or 2 of this Paragraph and the documents or objects containing banking or related secrecy immediately are related to those facts.

5. The decision on seizure shall contain a brief description of the alleged crime on the occasion of which it has become necessary to perform the seizure, as well as the object to be seized and the time and place of performing the seizure.

6. Based on the decision on seizure, the Investigator and the persons participating in the investigative action shall enter into the building or the site where the seizure is to be performed.

7. Prior to the beginning of the seizure, the Investigator shall be obliged to familiarize the person, in whose premises the seizure is performed with the decision, and to provide him with a copy of the decision. His signature about such fact shall be taken.

8. After handing over the copy of the decision on seizure and publicizing the decision, the Investigator shall offer to present the object subject to seizure. In case of a

refusal to present documents or objects containing medical, notary, banking or related secrecy without a reasonable justification, the Investigator shall be empowered to perform searching actions for the purpose of discovering them. In other cases, the performance of searching actions on the basis of a decision on seizure shall be prohibited.

9. If the object or document subject to seizure is in the materials of other criminal, judicial, or administrative proceedings, then a photo of the given object or a copy of the given 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.

10. The digital data contained in the electronic devices or media shall be seized in view of copying them in other device by preserving the integrity of such data and the data being copied.

11. 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.

12. A copy of the protocol of the seizure shall be handed to the person in whose premises the seizure has been performed or to his adult family member, against their signature. If the seizure has been performed in the premises of a legal person, institution, or detachment, then a copy of the protocol shall be handed to its representative.

Article 240. Exhumation

1. Exhumation is the 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 description of the alleged crime on the occasion of which the exhumation is to be performed, as well as the relevant 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 decision on exhumation and the notification on the right to the procedure and the time frame of the appeal shall be given by the Investigator to the any of the close relatives of the deceased. Prior to the beginning of 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 upon the moment of giving the decision to one of the close relatives 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 participation of the Investigator, a professionally competent Expert in the field of forensic medicine and, if necessary, the professionally competent Expert in other fields, as well. The presence of a representative of the local self-government body shall be binding. Any of the close relatives of the deceased also shall be entitled to participate in the exhumation.

6. After the exhumation, the corpse may be brought to a respective medical institution for performing the investigative actions envisaged by Paragraph 1 of this Article.

CHAPTER 30. GENERAL RULES ON THE PERFORMANCE OF UNDERCOVER INVESTIGATIVE ACTIONS

Article 241. Types of Undercover Investigative Actions

1. The following shall be 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;

6) Simulation of taking or giving a bribe.

Article 242. The Grounds and the Terms 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 in question, and, at the same time, obtaining such evidence in other ways is reasonably impossible.

2. The undercover investigative action shall be performed upon the instruction of the Investigator based on a Court decision.

3. Undercover investigative actions may be performed in the proceedings related to the alleged grave and particularly grave crimes as well as in the proceedings of taking and giving a bribe.

4. The list of special technical means used during the performance of undercover investigative actions shall be approved by the Government, upon submission by the authorized state body.

Article 243. Safeguards of Legitimacy of Undercover Investigative Actions

1. If information, materials and documents concerning a person have been obtained during the performance of an undercover investigative action, obtaining which was not contemplated by the decision on performing the particular action, then they may not be used in the criminal proceedings, unless the Inquiry Body has acted in good faith and based on a court decision. A separate protocol shall be composed on such information, materials, and documents.

2. The undercover investigative actions envisaged by Clauses 1 to 4 of Paragraph 1 of Article 241 of this Code may be performed:

1) In relation to the natural person concerning whom there are facts indicating the commission of the alleged crime;

2) In relation to the Accused;

3) In relation to the natural person concerning whom there is a grounded assumption that he has been in regular direct communication with the Accused or may reasonably communicate with him;

4) In relation to a legal person, concerning which there is a grounded assumption that its activities fully or in a relevant part are managed, controlled, or otherwise *de facto* directed by the persons specified in Clauses 1 or 2 of this Paragraph.

3. The undercover investigative action envisaged by Clause 5 of Paragraph 1 of Article 241 of this Code may be performed only in a case when the information sought to be obtained in their result would reasonably concern:

1) The natural person in relation to whom there are facts indicating the commission of the alleged crime;

2) The Accused;

3) The natural person in relation to whom there is a reasonable assumption that direct connection exists between him and the person specified in the Clauses 1 or 2 of this Paragraph and the information to be received is directly related to the facts attributed to the latter;

4) The legal person in relation to whom there is a reasonable assumption that its activities fully or in the relevant part are managed, controlled or otherwise *de facto* directed by the person specified in the Clauses 1 or 2 of this Paragraph and the information to be received is directly related to the facts attributed to the latter.

4. The undercover investigative action envisaged by Clause 6 of Paragraph 1 of Article 241 of this Code may be performed only in relation to a person concerning whom there are facts indicating the commission of an alleged crime.

5. Regardless of the status, the total duration of the performance of any undercover investigative action envisaged by Clauses 1 to 5 of Paragraph 1 of Article 241 of this Code in relation of the same person within the same proceedings may not exceed 12 months. Moreover, each time, the permission of the Court shall be granted for a time frame not exceeding 3 months.

6. The undercover investigative action shall be terminated if:

1) The need for it has ceased;

2) The preliminary investigation has been completed;

3) The time frame set by the decision of the competent Court or of 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 Clauses 1 to 4 of Paragraph 1 of Article 241 of this Code, if the person in relation to whom such action is to be performed communicates with his Attorney. In any event, information obtained in a result of monitoring such communication shall be destroyed immediately.

8. The undercover investigative action envisaged by Clause 6 of Paragraph 1 of Article 241 of this Code in relation of the same person and on the basis of a testimony made by the same person may be performed only once.

9. The special technical means used during the performance of undercover investigative actions shall not cause harm to human life or health, as well as to the environment.

10. It shall be prohibited for the state bodies, units, natural or legal persons not empowered by this Code to perform undercover investigative actions and to use special technical and other means designated (designed, programmed, or tailored) for obtaining secret information.

Article 244. Instruction of the Investigator to Perform an Undercover Investigative Action

1. The Instruction of the Investigator to perform an undercover investigative action shall be given in writing and shall contain data on the criminal proceedings within the framework of which such undercover investigative action is to be performed, information about the person issuing the instruction and the entity enforcing it, the type of the undercover investigative action to be performed, the terms and the duration of such performance, and information on when its results are to be presented and to whom.

2. A copy of the Court decision on permission of the performance of an undercover investigative action shall be attached to the instruction to perform the undercover investigative action.

Article 245. Protocol of the Undercover Investigative Action

1. The process and the results of an undercover investigative action shall be protocolized by the official performing it. The protocol shall indicate the place, time, circumstances of performance of 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 name and surname of the natural person (or his Legal Representative) and the name and whereabouts of the legal person subject to the information obtained in a result of the undercover investigative action, as well as all the activities undertaken during the undercover investigative action in order of their performance, the special technical means applied, and the information, materials, and documents obtained in a result of the action. The protocol shall be signed by the officials performing the undercover investigative action.

2. The protocol on monitoring telephone communication shall reproduce, *ad verbum*, the audio recording.

3. Photographic negatives and photos, digital information media, audio and video tapes, slides, sketches, and plans that have been composed or prepared within the course of performance of the undercover investigative action shall be attached to its protocol.

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 provide the protocol of the undercover investigative action to the Investigator who issued the instruction to perform such action and, upon respective request, to the Supervising Prosecutor. It shall not be permitted to provided the protocol to other bodies or persons.

CHAPTER 31. UNDERCOVER INVESTIGATIVE ACTIONS

Article 246. Indoors Surveillance

1. Indoors surveillance is the surveillance of a person or the monitoring of certain instances and events in the home with or without the use of special and other technical means, such as audio, video or audio-visual recording or photographing, documenting the results of the surveillance on electronic or other media.

Article 247. Outdoors Surveillance

1. Outdoors surveillance is the surveillance of a person or the monitoring of certain instances and events in an open area or public space or in closed space that is not considered a home, without limiting the privacy of the home, with special and other technical means, with audio-visual recording or photographing, documenting the results of the surveillance on electronic or other media.

Article 248. Monitoring of Mail Correspondence and Other Non-Digital Communications

1. Monitoring of mail correspondence and other non-digital communications the examination of letters and mail, telegraph, and other non-digital messages being conveyed, including parcel posts, parcel, postal containers and fax, including their contents with or without use of technical means, with documentation of its results or seizure of such communications.

2. When performing an undercover investigative action envisaged by this Article, telecommunications and postal operators shall be obliged, upon the request of the competent bodies, to provide technical systems and to create other conditions necessary for the performance of this undercover investigative action.

Article 249. Monitoring of Digital, including Telephone Communications

1. The monitoring of digital, including telephone communication is the secret identification, collection, documentation and preservation of the data envisaged by

Paragraph 2 of this Article using special and other technical means by the natural persons or legal persons possessing them.

2. The following shall be subject to monitoring of digital, including telephone communication:

1) In case of fixed or mobile telephony - the content of the telephone conversation, textual, image, voice, audio-visual and other messages, the incoming and outgoing calls of the subscriber, the starting and ending times of telephone conversation, the number to which the telephone call has been forwarded - in case of forwarding or transferring the telephone calls;

2) In case of Internet communication, including Internet telephony communication and electronic messages transferred via Internet - the content of the communication, the incoming and outgoing calls over Internet.

3. The preserved data shall be immediately destroyed, unless they have been taken by the Inquiry body within 90 days of rendering the respective Court decision.

4. When performing undercover investigative actions prescribed by this Article, telecommunications organizations shall be obliged, upon the request of the competent bodies, to provide technical systems and to create other conditions necessary for ensuring the performance of the undercover investigative action.

Article 250. 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 this Article, banks and other financial institutions shall be obliged, upon the request of the competent bodies, to provide the information necessary for ensuring the performance of the undercover investigative action.

Article 251. Simulation of Taking or Giving a Bribe

1. Simulation of taking or giving a bribe is the process of taking the pre-personalized subject of bribe or transferring it to the person who requested the bribe or to

the other person who was mentioned by the latter, under the control of Inquiry body, with participation of person who has been offered or with another person who is involved.

2. Simulation of taking or giving a bribe may be performed only for discovering a crime of receiving or giving a bribe, only on the basis of a trustworthy testimony of a person who received an offer of taking or giving a bribe.

3. For the purposes of this Code, the terms 'taking a bribe' and 'giving a bribe' as used in Paragraph 1 of this Article shall have the meaning prescribed for them under Articles 218 to 220, 258, 272 to 276, 435 to 440, 477, 496 and 497 of the Criminal Code of the Republic of Armenia.

4. The process and results of the undercover investigative action envisaged by Paragraph 1 of this Article may be certified only by means of audio-visual recording.

CHAPTER 32. EXPERT EXAMINATION

Article 252. Purpose and Scope of Expert Examination

1. Expert examination shall be performed when establishment of the circumstances of significance to the proceedings requires special knowledge in a field of science, technology, arts, crafts, or in another field, including in the field of the respective research methodology.

2. The expert examination shall be performed regardless of whether or not the other persons involved in the proceedings have special knowledge.

3. The expert examination in relation to a Minor Witness or a Victim may be performed only upon the consent of their Legal Representative, except for the cases envisaged by Clauses 1 to 4 of the Paragraph 1 of the Article 107 of this Code.

Article 253. Basis of Performing an Expert Examination

1. The expert examination shall be performed on the basis of a decision of the Investigator.

2. The decision to order an expert examination shall specify:

1) A brief description 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 assigned to perform the expert examination;

4) The questions posed to the Expert;

5) The relevant materials of the proceedings which are necessary for the expert examination and are provided to the Expert.

3. The information prescribed by Paragraph 2 of this Article shall also be indicated in the document composed when the private participant in the proceedings has the initiation to order an expert examination.

Article 254. Taking Samples for an Expert Examination

1. Prior to ordering an expert examination or during its performance, the Investigator or, upon his instruction, the Expert shall be entitled to take samples characterizing the features of a human being, a corpse, an animal, a substance, or any object, if such samples are necessary for the performance of the expert examination according to the requirements envisaged by Chapter 28 of this Code.

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 moulds of teeth and extremities;

4) Handwriting, signature, and other materials expressing a human skill;

5) Audio recording;

6) Test samples of finished products, raw materials, and substances;

7) Weapons, capsules, bullets, and balls;

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 substance 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 the place of his appearance for providing the sample;

6) The purpose of taking the sample.

4. The Investigator, in a manner prescribed by this Code, shall invite the person, or when it is impossible for that person to be present, shall go to the place of location of the person, familiarize the person, upon his signature, with the decision to take a sample, and explain his rights and obligations.

5. The Investigator shall perform the actions that are necessary for taking the sample with participation of the professionally competent Expert in the respective field.

6. Except for the samples taken from a human being, the Investigator may take samples for expert examination during an investigative action as well.

7. A The protocol of taking a sample for an expert examination shall contain the data envisaged by Article 215 of this Code as well as describe the samples taken. The samples taken shall be properly packaged, sealed, and attached to the protocol.

Article 255. Rights of the Interested Persons in Relation to the Performance of Expert Examination

1. The private participant in the proceedings, to the legitimate interest of whom the expert examination concerns *prima facie*, 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 familiarized with the decision of the Investigator on ordering an expert examination and to obtain clarification of his rights under this Article;

2) To seek a recusal to the Expert in three days after receiving the Investigator's decision on performance expert examination, to submit a motion to have a person specified by him invited as an Expert, substantiating that such person is professionally competent as well as to submit a motion to have posed additional questions to the Expert;

3) Upon the permission of the Investigator and the consent of the Expert, to be present during the performance of the expert examination;

4) To provide explanations to the Expert;

5) To obtain a copy of the Expert's conclusion within 3 days of transferring such conclusion to the Investigator;

6) To submit a motion on questioning the Expert or ordering an additional expert examination or a repeat expert examination;

7) To take part in the questioning of the Expert performed on his motion.

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 application of compulsory medical measures is to be resolved, if the state of health of such person allows exercising such rights;

2) Any other person to whose legitimate interests the expert examination is obviously related.

Article 256. Procedure for Performing an Expert Examination

1.The expert examination shall be performed by the Expert of an expert institution or the Expert who is not the expert of an expert institution.

2.If performance of the expert examination is assigned to at an expert institution, then the Investigator shall send the decision ordering an expert examination and the attached materials to the head of such institution. In this case, the expert examination shall be performed by the Expert indicated in the decision or, if none is mentioned, by the Expert of the expert institution who is assigned by the head of such institution to perform this expert examination.

3.The head of the expert institution shall organize the performance of the expert examination during the defined time frame, but shall not be entitled to give instructions to the Expert predetermining the course of the research or the content of the conclusions.

4. If the expert examination has been assigned to a person who is not an Expert at any expert institution, then the Investigator shall invite such expert, ascertain his

identity, and give him the decision ordering an expert examination and the attached materials.

5. The Investigator or, upon his instruction, the head of the expert institution shall have the Expert familiarized with his rights and obligations under this Code,

6. If there is a risk that a sample may disappear or become unfit for further examination, then the Expert shall be obliged to inform the Investigator about this. In this case the expert examination may be carried out upon the consent of the Investigator, and this needs to be reflected in the expert conclusion as well.

7. The Investigator may be present at the performance of the expert examination and obtain from the Expert clarifications regarding his actions.

8.Upon the request of the Expert, the Investigator shall be obliged, within the scope of his authority, to render the necessary assistance to the Expert for ensuring the normal course of the expert examination.

Article 257. Expert Examination by a Commission and the Compound (Multi-Disciplinary) Expert Examination

1. Due to the complexity of the examination, the 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 compound (multi-disciplinary) expert examination.

3. If the performance of expert examination is assigned to an expert institution without a request of performing an expert examination by a commission or a compound expert examination, then the head of the institution shall be empowered, upon the consent of the Investigator, to arrange for an expert examination by a commission or a compound expert examination.

4. If the expert institution does not have experts having special knowledge or skills in the respective field, then the Investigator shall, upon the recommendation of the

head of the expert institution, render a supplementary decision defining the list of experts involved in the compound expert examination.

Article 258. Additional and Repeat Expert Examinations

1. If the Expert's conclusion is deficient 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 the evidence used during the expert examination has been found inadmissible, or the procedure of performing an expert examination has been violated, the Investigator shall be obliged to order a repeat examination, assigning its performance to a different Expert. When ordering a repeat expert examination, the Expert may be asked a question on the substantiatedness of the scientific methods applied during the previous examinations.

3. The Expert who performed the previous examination may be involved upon the consent of the Investigator, in the performance of the additional or repeat expert examination and provide clarifications, but shall not participate in the performance of the examination actions and the development of the conclusion.

Article 259. Content of the Conclusion of the Expert

1. After performing the necessary examinations, the Expert shall compose a written conclusion confirmed by his signature, and send it to the Investigator.

2.The Expert's conclusion shall indicate:

1) The time and the place of performing the expert examination;

2) The Expert's name and surname and data certifying 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 who participated in the performance of the expert examination;

7) Description of the examinations performed and of the methods used;

8) Substantiated answers to the questions posed;

9) The circumstances 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 substantiation of impossibility of answering all or some of the questions posed.

4. In case of reaching a common finding when performing an expert examination by a commission, the Expert's conclusion shall be signed by all the Experts that performed the expert examination. In case of disagreement, each Expert shall compose a separate conclusion, which shall cover all the issues or those that caused disagreement.

5. Based on the totality of the circumstances discovered during the compound expert examination, each Expert shall participate in developing a common Expert's conclusion within the limits of his special knowledge and skills. Each Expert shall sign the part of the conclusion of the compound expert examination, which falls within his scientific competence.

6. The materials of the criminal proceedings, including the physical evidence, samples, and other objects and, if necessary, layouts, charts, photos, audio, video and audio-visual recordings that clarify and substantiate the findings of the Expert shall be attached to the expert conclusion.

PART THREE: THE COURT PROCEEDINGS

SECTION 8. GENERAL TERMS OF THE COURT PROCEEDINGS

CHAPTER 33. COURT JURISDICTION

Article 260. Subject-Matter Court Jurisdiction

1. All proceedings conducted under the first instance procedure shall fall within the jurisdiction of the First Instance Courts.

2. All proceedings in which an appeal for review has been submitted against the judicial acts of the First Instance Court shall fall within the jurisdiction of the Appellate Criminal Court.

3. All proceedings in which an appeal for review has been submitted against the judicial acts of the Criminal Court of Appeal shall fall within the jurisdiction of the Criminal Chamber of the Court of Cassation.

Article 261. Territorial Court Jurisdiction

1. The First Instance Court shall have jurisdiction over the proceedings related to the crimes allegedly committed within the judicial territory of such Court, regardless of the rules of investigative jurisdiction.

2. If the proceedings are related to two or more crimes allegedly committed within the judicial territory of different Courts, then the charges shall be examined by the Court, on the judicial territory of which the last crime has been allegedly committed.

3. If during the pre-trial proceedings it has not been possible to determine the place of commission of the alleged crimes prescribed by Paragraphs 1 and 2 of this Article, then the charges shall be examined by the court, within the judicial territory of which the seat of the preliminary investigation body that was the last to conduct the pre-trial proceedings is located.

4. The proceedings related to a crime allegedly committed within the territory of another state shall fall within 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 - of the court within the judicial territory of which the seat of the preliminary investigation body that was the last to conduct the pre-trial proceedings is located.

5. The territorial court jurisdiction may be changed upon the agreement of all of the Accused persons, if the majority of the private participants in the proceedings and the Witnesses reside within the judicial territory of another First Instance Court. A decision on changing the court jurisdiction shall be rendered by the Court examining the case.

6. Proceedings related to judicial safeguards shall fall within the jurisdiction of the court of the place of the seat of the preliminary investigation body conducting the pre-trial proceedings and, in exceptional cases, the court of the place of performance of the respective procedural action, provided that this will not lead to an unjustified limitation of the rights and legitimate interests of the participants in the proceedings.

Article 262. Court Jurisdiction when Joining the Proceedings

1. If two or more sets of proceedings subject to the court jurisdiction of different First Instance Courts have been joined during the pre-trial proceedings, then the charges shall be examined by the court within the judicial territory of which the last crime has been allegedly committed.

Article 263. Transfer of the Proceedings in Accordance with their Jurisdiction

1. During the preliminary hearings having determined that the particular proceedings do not fall within its jurisdiction, the Court, by its decision, shall promptly transfer the proceedings to the Court that has jurisdiction over them.

2. If the facts emerge during the principal court hearings, based on which the proceedings are to be transferred to the Court in accordance with their jurisdiction, the Court shall continue the proceedings upon the consent of the parties. In case of an objection by either of the parties, the proceedings, based on a decision, shall be transferred in accordance with their jurisdiction.

3. Only urgent procedural actions may be performed prior to transferring the proceedings in accordance with their jurisdiction.

4. The Court that has received the proceedings in accordance with their jurisdiction, shall be empowered to challenge, by its decision and prior to the beginning of the preliminary court hearings, the court jurisdiction over the proceedings. In that case, the issue of the court jurisdiction over such proceedings shall be resolved by a decision of the Chairperson of the Criminal Chamber of the Court of Cassation of the Republic of Armenia within a five-day period.

CHAPTER 34. TERMS RELATED TO THE PROCEDURE OF THE COURT PROCEEDINGS

Article 264. The Form and the Place of Conducting the Court Proceedings

1. The court proceedings shall be conducted under oral procedure and under written procedure, in the cases envisaged by this Code.

2. The proceedings conducted under oral procedure shall be held in the form of court sessions, during which court hearings may be held. The court session shall be held in a courtroom, except for the cases specified by this Code.

3. The proceedings under the Chapters 38-40 (except for challenging the legitimacy of the Arrest) and 47-79 shall be conducted under written procedure.

4. The proceedings conducted under written procedure shall be held without court sessions. The participants in the proceedings shall present in writing their explanations, the materials substantiating their explanations, motions as well as response to the appeal within the term specified respectively either in the decision to institute proceedings or in the decision to admit the appeal into proceedings. In case of proceedings conducted under written procedure the participants shall be informed only about the day when the judicial act will be rendered.

5. The Court on its own initiative is entitled to hold the proceedings specified in Paragraph 3 of this Article under oral procedure or to change the written form of the

proceedings to oral form, about which all the relevant participants shall be notified in a manner prescribed by this Code.

6. If the fair conduct of the proceedings requires performance of the procedural actions in another place, then the court session, upon a motion of a part or on the Court's own initiative, may be conducted outside the courtroom.

Article 265. Mobile Court Session

1. Only the First Instance Court, upon a motion of a party or on its own initiative may conduct mobile court sessions in the following cases:

1) If all of the Accused are military servicemen;

2) If all of the Accused are serving punishment in the form of deprivation of liberty.

2. In the case envisaged in Clause 1 of Paragraph 1 of this Article, the mobile court session may be held within the territory of a military detachment or military institution, and in the case envisaged by Clause 2 of Paragraph 1 of this Article - within the territory of a penitentiary institution.

3. The Court shall reject a motion on conducting a mobile court session if:

1) Holding a court session at the place indicated in the motion may create disproportionate difficulties for the participants in the proceedings or for the persons supporting the proceedings; or

2) The safeguards prescribed by Article 28 of this Code cannot reasonably be ensured at the place indicated in the motion.

Article 266. Order in the Court Session

1. Before the Court bench enters into or leaves the courtroom, the Secretary of the court session 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 time set by the respective decision, the Presiding Judge shall open the court session, announce which proceedings are to be examined, and announce the name

and surname of the Judge and the name and surname of the Secretary of the court session. Thereafter, the Secretary of the court session shall report to the Court on who has attended the court session, and the reasons for the non-attendance of the absent persons. If any of the participants 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 manifest proper behavior during the court session. Deviation from the rules of addressing the Court shall be permitted only if authorized by the Presiding Judge.

4. The Presiding Judge shall prohibit the presence in the courtroom of persons who are improperly dressed or are in an improper condition.

5. The instructions of the Presiding Judge shall be binding for each participant in the proceedings and each person present in the court session. In case of violating the rules of order in the court session, the Court may apply the procedural sanctions prescribed by this Code in respect of such participant in the proceedings or other person present in the court session.

Article 267. Openness of the Court Proceedings

1. The persons present in the court session shall be entitled to take notes, and those present in the open court session shall be entitled to make audio-recording. The video recording, audio-visual recording, photographing or broadcasting of the process of the court session shall be permitted by the Court, upon the consent of the Accused. If the Accused agrees, the video recording, audio-visual recording, photographing or broadcasting of a Court session may be prohibited by the Court's decision after hearing the opinion of the parties, if the interests of justice require so.

2. The participation of the representatives of the public and the mass media in a court session or a part thereof may be prohibited by a decision of the Court, rendered upon the motion of the party or on the Court's own initiative, if such prohibition is necessary to ensure:

1) The privacy of personal or family life;

2) The protection of the best interests of a minor;

3) The security of a person involved in the proceedings or his close one;

4) The protection of state, service or other secrecy preserved by the law.

3. If the issue of holding an in-camera court session needs to be discussed in presence of the parties alone, then this issue shall be discussed in an in-camera court session.

4. In all cases, the Court shall publicize the decision on holding an in-camera session, as well the grounds of such decision.

5. In addition to the persons involved in the proceedings, other persons may be present in the in-camera court session upon permission of the Court. The Court shall be empowered to warn the persons present in the in-camera court session of prohibition to disclose information that became known to them during such session.

Article 268. Orality and Immediacy of the Court Proceedings

1. All contacts between the Court and the participants in the court proceedings during the court session, including their arguments, motions, and statements, shall be made orally.

2. Any evidence and other materials of the proceedings shall be examined in the court session immediately by the Court and the participants in the court proceedings.

3. Only the evidence that has been examined in a court session may be laid into the basis of a judicial act.

4. This Article shall not be applied in relation to the proceedings conducted under written procedure.

Article 269. Irreplaceability of the Composition of the Court and Uninterruptedness of the Court Proceedings

1. In the Court, the proceedings shall be conducted by the same composition of the Court.

2. If participation of the 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. Prior to completion of the proceedings conducted under oral procedure or prior to postponing the principal hearings during the examination of the evidence other proceedings conducted under oral procedure shall not be permitted.

Article 270. Procedure for Rendering Decisions in a Court Session

1. The Court shall render a decision on every issue resolved during a court session, having heard in advance the opinions of the parties participating in the court session.

2. Decision on termination of the proceedings, on termination of criminal prosecution, on terminating, changing, leaving unchanged, prolonging the term of or applying a restraint measure, decision on self-recusal or a recusal, decision on exemption from participation in the proceedings, a decision ordering an expert examination, a decision on finding the evidence inadmissible, decision on imposing a judicial fine, and a decision on the removal from the proceedings shall be issued in the form of a standalone document.

3. All other decisions, at the Court's discretion, may be rendered either in the form of a standalone document or by means of their incorporation into the protocol of the court session.

4. All decisions rendered by the Court shall be promptly publicized. 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 the separate room. The presence of other persons shall not be permitted.

CHAPTER 35. TERMS RELATED TO THE PARTICIPANTS IN THE COURT PROCEEDINGS

Article 271. Presence of Persons Involved in the Proceedings in the Court Session

1. All persons who have been involved in the court proceedings and have been duly notified shall be obliged to appear in the court session in time, having with them a personal identification document and, if necessary, also a document certifying that they have been duly empowered.

2. A person who is deprived of an opportunity to be present at the court session due to a good reason shall be obliged to give a proper in advance notice to the Court of his inability to be present and of the reasons thereof.

3. By a decision of the Court, the procedural sanctions envisaged by this Code may be imposed on a person who has failed to attend the court session without a good reason, with the aim of securing his presence in the future court sessions.

4. Participation of the participants of the proceedings in the court session of the publicizing of the verdict and judgment shall not be mandatory, except for the Accused kept under custody.

Article 272. Participation of the Accused in the Court Session and the Consequences of his Failure to Attend

1. Participation of the Accused in the court session shall be mandatory, except for the cases prescribed by this Code. In case of a failure of the Accused to attend the court session in other cases, the court hearings shall be postponed.

2. By a decision of the Court, compulsory measures envisaged by this Code may be imposed on the Accused who has failed to attend the court session without a good reason, aiming to secure his presence in the future court sessions.

3. The court session may be held without the participation of the Accused in cases specified under Paragraphs 4 or 5 of Article 144 and Paragraph 4 of Article 271 of this Code as well as in other cases envisaged by this Code.

4. The Court session of the proceedings in relation to the crimes of minor or medium gravity shall be conducted without the presence of the Accused upon the decision of the Court if the latter has submitted such motion during the preliminary court hearings. The Court may consider mandatory the presence of the Accused in particular court session or in particular procedural action.

5. The Court is not entitled to hold court session without the presence of the Accused, if the latter has not Defence Counsel or has submitted the motion without consulting with his Defence Counsel.

Article 273. Participation of the Public Prosecutor and the Defence Counsel in the Court Session and the Consequences of their Failure to Attend

1. Participation of the public prosecutor in the court session shall be mandatory, unless this Code provides otherwise. In case of a failure of the Prosecutor to attend the court session and impossibility of his replacement with another Prosecutor in the given session, the court hearings shall be postponed.

2. In case of the removal of the Public Prosecutor from the proceedings or impossibility of his subsequent participation due to another reason, he shall be replaced with another Prosecutor. The Court shall give the new Prosecutor involved in the proceedings a reasonable time to study the criminal case file and to become prepared for defending the charges, taking into consideration the complexity of the proceedings, the time already spent for the court proceedings, and other circumstances.

3. Participation of the Defence Counsel in the court session shall be mandatory, unless this Code provides otherwise. In case of a failure of the Defence Counsel to attend the court session and impossibility of his replacement with another Defence Counsel in the given session, the court hearings shall be postponed.

4. In case of the removal of the Defence Counsel from the proceedings or impossibility of his subsequent participation due to another reason, the Court shall offer the Accused to have a new Defence Counsel invited. If a new Defence Counsel is not invited, the Court shall request the Chamber of Advocates of the Republic of Armenia to appoint another Defence Counsel.

5. The Court shall give the new Defence Counsel involved in the proceedings a reasonable time to study the criminal case file and to become prepared for defending the Accused, taking into consideration the complexity of the proceedings, the time already spent for the court proceedings, and other circumstances.

Article 274. Participation of the Victim, the Property Respondent, their Representatives, and the Legal Representative of the Accused in the Court Session and the Consequences of their Failure to Attend

1. The participation of the Victim, the Property Respondent, their Representatives, and the Legal Representative of the Accused in the court session shall be mandatory, except for the cases when:

1) The Court has allowed the respective person in advance not to participate in a particular court session;

2) The Court, having heard the opinion of the parties, finds that the absence of the respective person is not an obstacle for holding the particular court session.

3) The verdict or the judgment is being publicized.

2. If in other cases any of the persons specified in Paragraph 1 of this Article fails to appear in the court session, than the hearings shall be postponed.

Article 275. Participation of the Witness, the Expert, and the Interpreter 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, having heard the opinion of the parties, shall render a decision on continuing or postponing

the court hearings. The court session shall be continued if the absence of the Witness or Expert invited to the particular Court session will not hinder the fair conduct of the proceedings.

2. In cases envisaged by this Code, participation of the Interpreter in the court session shall be mandatory. If the Interpreter fails to attend, the court session shall be postponed.

CHAPTER 36. OTHER TERMS OF THE COURT PROCEEDINGS

Article 276. Scope of the Trial Examination

1. In the First Instance Court, the proceedings shall be conducted only in relation to the Accused and only in connection with the charges brought against him.

2. The charges brought against the Accused, in part of the factual circumstances, may be modified or supplemented in the First Instance Court only by the Public Prosecutor, if based on the evidence examined during the principal court hearings, the factual circumstances have been established that have not been known during the pre-trial proceedings and, as such, or in conjunction with other factual circumstances, make it necessary to bring new charges against the Accused.

3. The Public Prosecutor shall be empowered to modify the legal assessment of the act attributed to the Accused prior to the retiring of the First Instance Court to a separate room for rendering a verdict.

4. The Court shall be empowered to find established or rebutted only the factual circumstances that had been laid into the basis of the charges brought against the Accused. When rendering the verdict, the Court, without exceeding the scope of the factual circumstances laid into the basis of the charges, may change the legal assessment given to the action attributed to the Accused, if it has discussed with the parties the issue of the differing legal assessment in a due process of law.

Article 277. Procedure of Modifying or Supplementing the Charges Brought

1. The Public Prosecutor shall defend the charges in the First Instance Court pursuant to his inner belief based on the evidence. If the factual circumstances envisaged by Paragraph 2 of Article 276 of this Code are present, the Public Prosecutor shall submit a motion to the Court to provide time to modify or supplement the charges brought against the Accused. Such a motion may be submitted only prior to the beginning of the closing arguments.

2. The motion of the Public Prosecutor on modifying or supplementing the charges shall be rejected only in the case when it has been presented in absence of the conditions prescribed by this Code. In case of rejecting the motion, the Court shall continue the proceedings.

3. In case of granting the motion of the Public Prosecutor, the Court shall postpone the court hearings, giving a reasonable time for modifying or supplementing the charges.

4. In case of modifying or supplementing the charges, the Public Prosecutor shall compose a decision on bringing new charges, which shall replace the indictment and shall meet the requirements concerning the content of the indictment. The decision on bringing new charges shall be provided to the Court and to the participants in the court proceedings. The Court shall give the Accused and his Defence Counsel, the Victim, the Property Respondent, and their representatives a reasonable time to become familiarized with the new charges.

5. If the decision on bringing new charges has been composed or submitted in violation of the requirements set under this Code, then the Court shall provide reasonable time to the Public Prosecutor to compose and submit that decision in line with the requirements of this Code. If within the time frame set by the Court the violations of the requirements of this Code are not remedied, then the Court shall continue the proceedings based on the initial charges, by rendering a separate decision on this.

6. If after examining all the evidence during the principal court hearings, the Public Prosecutor reaches the belief that the charges brought against the Accused have not

been fully or partially proven, then in his closing argument he shall submit a motion to acquit the Accused, fully or partially, respectively.

7. Taking into consideration the basis, justifications, and the scope of the Public Prosecutor's motion on acquitting the Accused, and having heard the opinions of the other participants in the proceedings on such motion, the Court may grant or reject the motion in the conclusive judicial act.

Article 278. Postponement of the Court Hearings

1. The court hearings shall be postponed if:

1) Any of the grounds for suspending criminal prosecution, as envisaged by Clauses 1 to 3, and 5 of Paragraph 2 of Article 193 of this Code, is present;

2) Any of the persons envisaged by Articles 272 to 275 of this Code has failed to attend, provided that his participation is mandatory by law or upon a Court decision;

3) The Court finds that it is necessary to resolve the issue of constitutionality of the normative legal act, which is subject to application within the proceedings in question;

4) It is impossible to continue the court session in absence of the participant in the proceedings who has been removed from the courtroom in cases prescribed under Article 144 of this Code.

2. The court hearings may be postponed upon the initiative of the court or on a motion of a party if it is necessary:

1) For obtaining new evidence;

2) For the Public Prosecutor to modify or supplement the charges, or for the defence party to become familiarized with the new charges and to take measures to defend against those;

3) For rendering a verdict or a judgment.

3. In case of postponing the court hearings based on the grounds envisaged by Clauses 1 and 2 of Paragraph 1 of this Article, the Court shall take measures to ensure the presence of the respective participant in the proceedings in the future court sessions. In case of postponing the court hearings based on the ground envisaged under Clause 3 of Paragraph 1 of this Article, the Court shall apply to the Constitutional Court.

4. The Court shall render a decision on postponing the court hearings. In each case, the court hearings shall be postponed for a reasonable time, taking into consideration the specifics of the circumstances hindering the continuation of the proceedings and the nature of the measures taken to eliminate them.

Article 279. Protocolizing of the Court Session

1. The course of the proceedings in the Court shall be subject to mandatory protocolizing. During the court session, the protocol shall be maintained by the Secretary of the court session, who shall incorporate all the procedural actions and all the decisions into the protocol.

2. In the courtroom the protocol shall be compiled by means of voice recording of the court session and simultaneous shorthand note-taking on the computer. Shorthand note-taking shall be performed in the form of notes about the procedural actions performed and decisions rendered in the courtroom. The procedure of operating the special system for computer-based audio recording, archiving the data, and maintaining the system shall be defined by the Supreme Judicial Council.

3. In case of malfunctioning of the special system for computer-based audio recording, or when performing the certain procedural actions outside the courtroom, a plain paper-based protocol shall be composed.

4. The plain paper-based protocol of the 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) The data 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) The data related to the person of the Accused and to the restraint measure applied;

6) The procedural actions - in order of their occurrence;

7) Summary of the arguments, motions, and statements of the participants in the proceedings;

8) Decisions of the Court rendered without composing a separate document;

9) Indication of the fact that decisions were rendered in a separate room;

10) Indication of the fact of clarification of the rights and obligations of 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 have requested to be incorporated in the protocol;

14) Indication of the fact of clarification of the procedure and time frames for publicizing and appealing the verdict and the conclusive judicial act;

15) Information on violations of the rules of order in the court session, the facts of contempt of Court, and on the person of violator, as well as the procedural sanction imposed on such person by the Court;

16) Indication of the fact of becoming of the participants in the proceedings familiarized with the protocol and of clarifying their right to present remarks in relation to the protocol;

17) The content of the decisions rendered in a form of a separate document;

18) The verdict and the conclusive part of the judgment.

5. The information envisaged by Clauses 11 to 13 of Paragraph 4 of this Article shall be protocolized by the Secretary of the court session *ad verbum*.

6. During the court session, the plain paper-based protocol shall be maintained in handwriting or by computer and attached to the materials of the proceedings with the signatures of the Presiding Judge and the Secretary of the court session.

7. When maintaining a protocol via the use of the special computer system for audio recording, its shorthand note-taking shall be performed simultaneously with the audio recording, using the computer. The audio protocol shall be attached to the materials of the proceedings on an electronic medium. The shorthand notes shall be attached to the materials of the proceedings on paper, signed by the Secretary of the court session.

8. One example of the medium of the audio protocol of the court session, along with its shorthand notes, shall be provided to the participants in the proceedings, immediately after the court session, upon their application.

9. The copy of the plain paper-based protocol of the court session, upon the written application of the participants in the proceedings, shall be provided no later than on the day following the receipt of the application.

10. The erasures in the content of the protocol shall be prohibited. If a correction is necessary, the Secretary of the court session, prior to its signing, shall obtain the consent of the Presiding Judge to make such correction.

Article 280. Remarks on the Plain Paper-Based Protocol

1. The Participants in the proceedings may become familiarized with the plain paper-based protocol and, within three days, present remarks on its completeness or accuracy.

2. Remarks 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 281. Entry of the Judicial Acts into Legal Force

1. The conclusive judicial act of the First Instance Court shall enter into legal force upon the expiration of the time period for appealing it under the appellate review, unless it has not been appealed. Other judicial acts of the First Instance Court shall enter into legal force upon their publicizing.

2. The conclusive procedural act rendered by the First Instance Court in the proceedings regarding judicial safeguards shall enter into legal force at the moment of publication and in case of proceedings conducted under written procedure, on the same day it is rendered.

3. A judicial act rendered by the Court of Appeal in a result of the appellate review shall enter into legal force upon expiration of the time period for appealing it under the cassation appeal procedure, unless it has not been appealed. Other judicial acts of the

Court of Appeal shall enter into legal force upon their delivery and in case of proceedings conducted under written procedure, on the same day the decision is rendered.

4. Judicial acts of the Court of Cassation shall enter into legal force upon their delivery, and in case of proceedings conducted under written procedure, on the same day the decision is rendered.

Article 282. Transferring of the Judgment for Enforcement

1. The judgment that has entered into legal force shall be transferred for enforcement by the Court that has rendered it no later than within three days upon its entry into legal force or remittal of the case file by the higher instance.

2. In a case when the acquitting judgment has been rendered and the person who committed the crime remains unknown, the Court, within three days upon the entry into force of such judgment or remittal of the case file by the higher instance, shall send the criminal case file to the Prosecutor for resolving the issue of instituting criminal prosecution in relation to a new person.

3. The instruction of the Judge on enforcement of the judgment, along with the copy of the judgment or, in case of modifying the judicial act under the process of judicial review, with a copy of the judicial act of the Court of a higher instance, shall be sent to the body that under law bears the obligation of enforcing the judgment.

4. The Judge shall be obliged to inform any of the close relatives of the person, who is under detention and has been convicted to a punishment connected with deprivation of liberty, on transferring the judgment for enforcement. If a person, who is under detention and has been convicted to a punishment connected with deprivation of liberty, is a citizen of a foreign state with which the Republic of Armenia has an international treaty on the provision of legal assistance in criminal matters or an agreement with regard the reciprocity of provision of such assistance, then the Court, through diplomatic channels, shall also notify the state of the citizenship of the person about the instruction to deliver the judgment for enforcement in respect of such person except when the convicted person is asylum seeker or refugee.

Article 283. Resolution of Ambiguities in the Conclusive Judicial Act

1. The Court that rendered a conclusive judicial act may resolve ambiguities arising within the course of its enforcement, provided that this cannot alter the essence of the judicial act.

2. The following ambiguities shall be subject to resolution:

1) The punishment has not been correctly calculated;

2) The issues of application of a restraint measure, preservation or disposal of evidence, attachment of the property, or distribution of the costs of proceedings have not been resolved or have been resolved ambiguously;

3) The descriptive part or the reasoning part of the judgment contains ambivalent wording;

4) The judicial act contains mistakes or omissions.

SECTION 9. JUDICIAL SAFEGUARDS OF THE PRE-TRIAL PROCEEDINGS

CHAPTER 37. JUDICIAL SAFEGUARDS OF THE APPLICATION OF RESTRAINT MEASURES

Article 284. Scope of the Judicial Safeguards of the Application of Restraint Measures

1. The Court, in a due process of law prescribed by this Code shall examine the following:

1) The motion on application of detention, house arrest or administrative supervision as a restraint measure;

2) The motion on prolongation of the term detention or house arrest;

3) The motion on termination of detention or application of an alternative restraint measure instead of detention.

Article 285. Initiation of Proceedings for Application of a Restraint Measure or Prolongation of the Term of a Restraint Measure Applied

1. The proceedings for application of a restraint measure or prolongation of the term of a restraint measure applied shall be instituted based on a motion of the Investigator.

2. The motion of the Investigator shall contain:

1) The name of the competent Court;

2) The name, surname, and the position of the Investigator;

3) The year, month, day, hour, and minute of submitting the motion to the Court;

4) The sequential number of the proceedings;

5) The name, patronymic, surname, and relevant personal data of the Accused and, in case of being under custody, the legal grounds thereof and the time of *de facto* deprivation of liberty;

6) The restraint measure for which the motion is submitted and its conditions;

7) Substantiation of the motion;

8) The list of the materials attached to the motion.

3. The copies of the protocol on initiation of the criminal proceedings and of the decision to institute criminal prosecution, as well as the copies of the necessary materials confirming the substantiatedness of the motion, shall be attached to the motion. If the Accused, in relation to whom the motion is submitted, is under custody, then the copies of the documents that served as a basis for depriving a person of liberty shall also be attached to the motion.

4. The motion and the attached materials shall be presented to the Court in two examples.

5. The arrested Accused person shall be brought before Court at the time when the motion is submitted.

6. The motion on prolongation of the term of detention or house arrest shall be submitted to the Court no later than 5 days prior to the expiration of the term for which the respective restraint measure was applied.

7. Promptly upon receiving the motion, but no later than within 1 hour, and in case of receiving a motion on prolongation the term of the restraint measure applied - not later than on the next day, the Court shall render a decision to institute the respective proceedings or to reject institution of such proceedings.

8. The decision to institute proceedings shall indicate the place, year, month, day, and hour of conducting the court session. The court session shall be scheduled within the shortest time period possible. When determining the time of the court session, the time that the defence party reasonably needs for becoming familiarized with the motion and the attached materials and for developing its position shall be taken into consideration. After rendering a decision to institute proceedings, one example of the motion and of the attached materials shall be immediately provided to the Accused.

9. The institution of the proceedings shall be rejected with substantiation, if any of the conditions envisaged by Paragraphs 2 to 6 of this Article has not been complied with. The rejection to institute the proceedings shall not be an obstacle to submit a new motion.

Article 286. Subject Matter of the Proceedings for Application of a Restraint Measure or Prolongation of the Term of a Restraint Measure Applied

1. The subject matter of the proceedings conducted in Court for application of a restraint measure or prolongation of the term of a restraint measure applied shall be the need and the legitimacy of application of a restraint measure to the Accused or prolongation of the term of such a restraint measure applied, as well as the possibility of application of a more lenient restraint measure, and, in a case of the arrested Accused - also the legitimacy of the arrest.

Article 287. Conduct of the Proceedings for Application of a Restraint Measure or Prolongation of the Term of a Restraint Measure Applied

1. The court hearings on the motion on application of a restraint measure or prolongation of the term of a restraint measure applied, shall be conducted on the basis of the equality of the parties and adversarial proceedings, with mandatory participation of the Investigator and the Accused. The official who submitted the motion shall be responsible for ensuring the presence of the Accused.

2. The exceptions from the rule of mandatory participation of the Accused shall be the following:

1) When the whereabouts of the Accused are unknown, or he is beyond the borders of the Republic of Armenia;

2) The Accused, in relation to the proceedings on prolongation of the term of the restraint measure, has refused, voluntarily and in writing, to participate in court sessions and has a Defence Counsel, who participates in the court hearings, and at the same time the Court has not determined that participation of the Accused in the court hearings is mandatory.

3. The Supervising Prosecutor, as well as the Defence Counsel and Legal Representative of the Accused shall have the right to participate in the court hearings on

the motion on application of a restraint measure or prolongation of the term of a restraint measure applied.

4. The court session to examine the issue of application of a restraint measure or prolongation of the term of a restraint measure applied shall be conducted in an in-camera court session. The Court upon the motion of a party, may render a decision in relation to publicity of the court session, prior to or during the court session.

5. In the court hearings on the motion on application of a restraint measure or prolongation of the term of a restraint measure applied, the prosecution party shall be the first to provide an explanation, followed by the defence party. The opposite party, as well as the Judge shall be entitled to pose questions to the part that is providing an explanation.

6. The parties may present to the Court additional materials related to the subject matter of the proceedings. In case of their irrelevance, the Court shall not examine the additional materials, but shall be obliged to attach them to the materials of the proceedings. In case of their relevance, the opposite party shall be given a reasonable opportunity to become familiarized with the additional materials.

7. The provisions of Section 8 of this Code shall apply, *mutatis mutandis*, to the procedure of conducting court hearings based on the motion on application of a restraint measure or prolongation of the term of a restraint measure applied.

8. After concluding the court hearings, the Court shall retire to a separate room for rendering a decision.

Article 288. Decision on the Motion for Application of a Restraint Measure or Prolongation of the Term of a Restraint Measure Applied

1. In a result of examining the motion on application of a restraint measure or prolongation of the term of a restraint measure applied, the Court shall render one of the following three decisions:

1) A decision on rejecting the motion;

2) A decision on partially granting the motion;

3) A decision on fully granting the motion.

2. The Court shall render the decision envisaged by Clause 1 of Paragraph 1 of this Article, if:

1) It discovers any circumstance envisaged by Article 12 of this Code;

2) The reasonable suspicion on having committed the crime attributed to the Accused has not been proven;

3) The Court reaches the conclusion that there is no need to apply the requested restraint measure for ensuring the legitimate conduct of the Accused, and that the issue of the need for and possibility of applying a more lenient restraint measure or a combination of more lenient restraint measures shall be resolved by the respective public participants in the proceedings within the scope of their authorities;

4) There is a threat to the life of the Accused, and the possibility to neutralize it has not been substantiated;

5) The Court reaches the conclusion that in cases stipulated under Clause 1 of Paragraph 1 of Article 108 of this Code, the reasonable suspicion obviously was not immediately arisen.

3. The Court shall render the decision envisaged by Clause 2 of Paragraph 1 of this Article, if:

1) The Court reaches the conclusion that the legitimate conduct of the Accused can be ensured by applying a more lenient restraint measure or a combination of more lenient restraint measures;

2) The Court reaches the conclusion that the legitimate conduct of the Accused can be ensured by applying the requested restraint measure with more lenient conditions of application a shorter duration or more favourable terms for Accused.

4. The Court shall render the decision envisaged by Clause 3 of Paragraph 1 of this Article, if it reaches the conclusion that the prosecution party has substantiated in a due process of law established under this Code the need for and the legitimacy of application of the requested restraint measure at the terms requested for in the motion.

5. If the Court renders either of the decisions envisaged by Clauses 2 or 3 of Paragraph 1 of this Article, it shall precisely determine the type and the terms of the restraint measure being applied.

6. If the Court renders a decision on application of detention as a restraint measure, then, based on a substantiated motion by the Accused, it shall be empowered to oblige the body conducting proceedings to undertake the measures necessary for the care of minors or incapacitated persons being under the care of the detained person or for the preservation of the property.

7. If the Court finds out that the rights of the Arrested person have been violated during the arrest, then by a decision it shall:

1) Confirm that fact;

2) Clarify to the Arrested person the procedure to obtain redress as envisaged by the law of the Republic of Armenia;

3) Apply to competent bodies or officials to initiate a legal process in connection with the fact of violation;

4) Oblige, if needed, the competent bodies to undertake measures to eliminate the violations of the rights of the Arrested person.

8. The conclusive part of the decision shall be publicized in the court session. A copy of the decision shall be provided to the participants in the court session in a due manner no later than within 3 hours upon the publicizing of the decision. A copy of the decision shall be sent in a due manner to the registration address of the Accused, whose whereabouts are unknown.

9. The Investigator shall immediately inform, in writing about the decision on application of detention as a restraint measure or prolongation of the term of detention applied to the workplace administration of the Accused.

Article 289. Motion to Terminate Detention or to Apply an Alternative Restraint Measure instead of Detention and Examination of Such Motion

1. The Accused under detention, his Defence Counsel or Legal Representative, no later than 7 days prior to expiration of the detention term, shall be entitled to submit a motion to the Court to terminate the detention or to apply an alternative restraint measure

instead of detention. A copy of such motion shall be sent to the Investigator conducting the pre-trial proceedings and to the Supervising Prosecutor.

2. The Court shall reject the institution of the proceedings on the basis of the motion, if the motion has been submitted by an improper person or within an improper time frame, or if the motion does not contain any new essential arguments challenging the legitimacy of the detention or substantiating the possibility of applying alternative restraint measures. Otherwise, the Court, based on the motion, shall institute the proceedings and schedule a court session within 5 days.

3. The court hearings based on the motion envisaged by this Article shall be held in compliance with the requirements of Article 287 of this Code. If the Court, based on the nature of the arguments in the motion, reaches a conclusion that participation of the Accused is not mandatory, then it shall explicitly indicate in the decision on institution of the proceedings that the court session may be held in absence of the Accused.

4. In a result of examination of the motion, the Court shall render one of the following decisions:

1) A decision on rejecting the motion, if it reaches the conclusion that the conclusions on the legitimacy and necessity of the detention continue to remain grounded;

2) A decision on partially or fully granting the motion, if it confirms the presence of any of the circumstances envisaged by Paragraphs 2 or 3 of Article 288 of this Code. If the Court, while terminating the detention, reaches the conclusion that it is necessary to apply an alternative restraint measure or a combination of alternative restraint measures, then the decision shall explicitly indicate the type and the conditions of the restraint measure being applied.

Article 290. Repeated Examination and Resolution of the Detention Issue

1. If the decision to apply detention as a restraint measure has been rendered without the participation of the Accused, then the body conducting proceedings, within 48 hours upon detaining the Accused under the jurisdiction of the Republic of Armenia, shall be obliged to bring such person before the competent Court for a repeated examination of the issue of the detention applied in relation to 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 resolved in compliance with the rules envisaged by Articles 287 and 288 of this Code.

CHAPTER 38. JUDICIAL SAFEGUARDS OF THE PERFORMANCE OF EVIDENTIARY ACTIONS

Article 291. Scope of the Judicial Safeguards of the Performance of Evidentiary Actions

1. Within a due process of law established by this Code, the Court shall examine:

1) The motion on performing any of the investigative actions prescribed by Paragraph 4 of Article 209 of this Code;

2) The motion on performing an undercover investigative action;

3) The motion on prolongation of the term of an undercover investigative action.

Article 292. Initiation of Proceedings to Perform an Evidentiary Action or to Prolong the Time Period of the Undercover Investigative Action

1. The proceedings of performance of an evidentiary action or prolongation of the term of an undercover investigative action shall be instituted based on the motion of the Investigator.

2. The motion of the Investigator shall contain:

1) The name of the competent Court;

2) The name, surname, and the position of the Investigator;

3) The year, month, day, hour, and minute of submitting the motion to the Court;

4) The sequential number of the proceedings;

5) The relevant data of the person whose constitutional right is requested to put the restriction on;

6) The requested evidentiary action, and the relevant terms of its execution, including the time frames;

7) The result sought to be obtained by the requested evidentiary action;

8) The result obtained during the performance of the undercover investigative action, in case of a motion to prolong the term of an undercover investigative action;

9) Arguments that substantiate the necessity and proportionality of a restriction of the constitutional right of the person, including arguments that substantiate reasonable impossibility of receiving the result sought to be obtained by the requested evidentiary action in other manner;

10) The list of documents attached to the motion.

3. A copy of the protocol on initiating the criminal proceedings, shall be also attached to the motion, along with the copies of the necessary materials confirming the substantiatedness of the motion.

4. The motion on performing the undercover investigative action envisaged by Clause 3 of Paragraph 1 Article 241 of this Code shall also indicate the respective postal address. In case of its absence, a sample of handwriting of the respective person or other features sufficient for his identification may be presented.

5. The motion on the undercover investigative action envisaged by Clause 4 of Paragraph 1 of Article 241 of this Code shall also indicate the respective telephone number, e-mail address, words or word combinations of interest for the search, or other relevant personal identification data.

6. The motion on performing the undercover investigative action envisaged by Clause 5 of Paragraph 1 of Article 241 of this Code shall also contain data of the respective financial transactions, the personal identification data of the person whom such transactions relate to or whom the bank account in question belongs to, as well as the data, if any, of the respective bank account (deposit).

7. The motion on performing the undercover investigative action envisaged by Clause 6 of Paragraph 1 of Article 241 of this Code shall be accompanied by the testimony of the respective person on the offer to receive or to give a bribe.

8. The motion on prolongation of the term of the undercover investigative action shall be submitted to the Court no later than 5 days prior to the end of the term of the respective undercover investigative action.

9. The Court, promptly, but no later than within 3 hours upon the receipt of the motion on performing the evidentiary action, and in case of a motion on prolongation of the term of an undercover investigative action - no later than on the next day upon the receipt of such motion, shall render a respective decision on instituting the respective proceedings or on rejecting institution of such proceedings.

10. The decision on instituting the proceedings shall indicate whether the proceedings are conducted under written procedure or under oral procedure, as envisaged by Paragraph 5 of Article 264. If the proceedings are conducted under oral procedure, the decision on instituting the proceedings shall indicate the place, the year, month, day and time of holding the court session. The court session shall be scheduled within the shortest time possible. When determining the time of the court session, the possibility of a loss or a damage to the sought result of the requested evidentiary action shall be taken into consideration.

11. Institution of the proceedings shall be rejected in a substantiated manner, if any of the conditions set forth under Paragraphs 2 to 8 of this Article had not been observed. Rejection of the initiation of the proceedings shall not be an obstacle for submitting a new motion.

Article 293. Examination of the Motion to Perform an Evidentiary Action or to Prolong the Time Period of the Undercover Investigative Action and the Decisions Rendered in a Result of Such Examination

1. Examination of the motion shall be performed under written procedure, and, in cases envisaged by Paragraph 5 of Article 264, under oral procedure. If the examination

is conducted under oral procedure, then it shall be held in the in-camera court session, with mandatory presence of the person who has submitted the motion. The Supervising Prosecutor may participate in the court session, and, in case of a motion on performing an undercover investigative action or on prolonging the term thereof, also the Head of the respective Inquiry Body or the Inquiry Officer.

2. Upon the request of the Court, the Investigator, Supervising Prosecutor and the Head of the Inquiry Body and the Inquiry Officer participating in the court session shall provide explanations on the subject matter of the motion.

3. In a result of examination of the motion, the Court shall render one of the following three decisions:

1) A decision on rejecting the motion;

2) A decision on granting the motion and permitting the performance of the requested evidentiary action;

3) A decision on granting the motion and prolonging the term of the performance of the requested undercover investigative action.

4. In case of granting the motion, the Court may change the relevant conditions, including time period of the execution of the permitted evidentiary action to the benefit of the person whose rights would be restricted in a result of the evidentiary action.

5. The decision rendered by the Court in a result of examination of the motion shall be provided in a due manner to the Investigator who submitted the motion, but no later than within 3 hours upon the publicizing of the conclusive part of the decision.

CHAPTER 39. JUDICIAL SAFEGUARDS OF LIMITATION OF THE RIGHT TO OWNERSHIP

Article 294. Scope of Judicial Safeguards of the Legitimacy of the Limitation of the Right to Ownership

1. Within a due process of law established by this Code, the Court shall examine:

1) The motion on confirming the legitimacy of the decision of the Investigator on attachment of the property;

2) The motion on terminating the attachment of property.

Article 295. Initiation of the Proceedings to Verify the Legitimacy of Limitation of the Right to Ownership

1. Proceedings to verify the legitimacy of limitation of the right to ownership shall be instituted on the basis of the motion of the Investigator to confirm the legitimacy of a decision on attachment of the property, which motion shall be submitted to the Court within 3 days after attaching the respective property.

2. The motion of the Investigator shall contain:

1) The name of the competent Court;

2) The name, surname, and the position of the Investigator;

3) The year, month, day, hour, and minute of submitting the motion to the Court;

4) The sequential number of the proceedings;

5) The relevant personal data and the address of the owner of the attached property or other person having pecuniary interests in relation to it;

6) Description of the attached property;

7) The arguments substantiating the need for and the legitimacy of attaching the property;

8) If necessary, the request to examine the motion in the in-camera court session and the substantiation thereof;

9) List of the materials attached to the motion.

3. Attached to the motion shall be: a copy of the protocol on initiating the criminal proceedings, a copy of the decision on instituting criminal prosecution against the respective person, a copy of the decision on attaching the property, the document confirming the provision of a copy of the motion to the owner of the property or to other person having pecuniary interests in relation to it, as well as the copies of the necessary materials confirming the substantiatedness of the decision on attaching the property.

4. The Court, no later than on the day following the receipt of the motion, shall render a decision on instituting the proceedings for judicial verification of the legitimacy of limitation of the right to ownership, or on rejecting institution of such proceedings.

5. The decision to institute the proceedings shall indicate whether the proceedings will be conducted under written procedure, or, as envisaged by Paragraph 5 of Article 264 of this Code, under oral procedure. In case of conducting the proceedings under oral procedure, the decision shall indicate the place, the year, month, day and time of holding the court session, as well as whether it will be an open or an in-camera session. A copy of the decision shall be duly sent to the Investigator who submitted the motion, as well as to the owner of the attached property or other person having pecuniary interests in relation to it.

6. The Court session shall be scheduled within a seven-day period.

7. Institution of the proceedings shall be rejected in a substantiated manner, if any of the conditions set forth under Paragraphs 2 and 3 of this Article had not been observed. Rejection of the institution of the proceedings shall not be an obstacle for submitting a new motion.

Article 296. Conduction of the Proceedings to Verify the Legitimacy of Limitation of the Right to Ownership

1. Proceedings to verify the legitimacy of limitation of the right to ownership shall be conducted under written procedure and, in cases envisaged by Paragraph 5 of Article 264, under oral procedure. The examination of the motion conducted under oral procedure shall be performed in the form of court session with mandatory participation of the Investigator. The owner of the attached property or other person having pecuniary interests in relation to it, as well as their representative, and the Supervising Prosecutor shall be entitled to participate in such court hearings.

2. The court hearings may be conducted in the absence of the owner of the attached property or other person having pecuniary interests in relation to it, provided that they have been duly notified of the court session.

3. The court session to verify the legitimacy of the limitation of the right to ownership shall be open, provided that in the Court decision on institution of the proceedings, the Court has not decided to hold an in-camera session. In any event, the Court, on its own initiative or upon the motion of a party, may change, with substantiation, the decision on the openness of the court session prior to the court session or during thereof.

4. In the court hearings held for verification of the legitimacy of a limitation of the right to ownership, the Investigator shall be the first to provide an explanation, followed by the owner of the attached property or other person having pecuniary interests in relation to it, or their representative, provided that such persons has appeared in the Court session. The opposite party, as well as the Judge shall be entitled to pose questions to the person providing an explanation.

5. The parties may present to the Court supplementary materials related to the subject matter of the proceedings. If they are not relevant, the Court shall not examine the supplementary materials, but shall be obliged to attach them to the proceedings. If they are relevant, the other party shall be given a reasonable opportunity to become familiarized with the supplementary materials.

6. The procedure of holding court hearings to verify the legitimacy of a limitation of the right to ownership shall, *mutatis mutandis*, be subject to the provisions of Section 8 of this Code.

7. Having concluded the court hearings, the Court shall retire to a separate room for rendering a decision. The decision in the result of the proceedings to verify the legitimacy of limitation of the right to ownership shall be rendered within the shortest time period possible but not later than within 15 days.

Article 297. Decision on the Motion to Confirm the Legitimacy of Limitation of the Right to Ownership

1. In a result of examining a motion to confirm the legitimacy of a decision on attaching the property, the Court shall render one of the following decisions:

1) A decision on rejecting the motion and revoking the decision of the Investigator on attaching the property;

2) A decision on granting the motion and confirming the legitimacy of the decision of the Investigator on attaching the property.

2. In case of the examination of the motion under oral procedure the conclusive part of the decision shall be publicized in the court session. The full decision shall be duly provided or sent to the participants in the court session no later than on the day following the publicizing or rendering of the decision.

Article 298. Motion to Terminate Limitations on the Right to Ownership and Its Examination

1. The owner of the property or other person having pecuniary interests in relation to it or their representative shall have the right, during the pre-trial proceedings, to submit a motion to the Court on terminating the attachment of property, not earlier than within 3 months upon the attachment of the property. A copy of such motion shall be sent to the Investigator conducting the pre-trial proceedings and to the Supervising Prosecutor.

2. The Court shall reject the institution of proceedings on the basis of a motion, if the motion has been submitted by an improper person or in an improper time frame, or if the motion does not contain any new essential arguments challenging the legitimacy of the attachment of property. Otherwise, the Court, upon the motion, shall institute proceedings by indicating in the decision whether the proceeding will be conducted under written procedure, or, as envisaged by Paragraph 5 of Article 264, under oral procedure. In case of conducting the proceedings under oral procedure, the Court session is scheduled within 7 days.

3. The examination of a motion envisaged by this Article, conducted under oral procedure, shall be held in compliance with the requirements set under Article 296 of this Code.

4. In a result of examining the motion, the Court shall render one of the following decisions:

1) A decision on rejecting the motion, if the Court reaches the conclusion that the conclusions on the legitimacy of the attachment of property remain grounded;

2) A decision on granting the motion partially or fully, and terminating the attachment of property partially or fully, if the Court agrees with the arguments stated in the motion.

5. In case of conducting the proceedings of the motion under oral procedure, the Conclusive part of the decision shall be publicized in the Court session. The full decision shall be duly provided or sent to the participants in the proceedings not later than the next day of publicizing or rendering the decision.

CHAPTER 40. JUDICIAL SAFEGUARDS OF THE LEGITIMACY OF THE PROCEDURAL (PRE-TRIAL ACTS) ACTS OF THE PUBLIC PARTICIPANTS

Article 299. Scope of Judicial Safeguards of the Legitimacy of Pre-Trial Acts

1. The following pre-trial acts shall be subject to judicial appeal:

1) Arrest;

2) The refusal to protocolize a report of the alleged crime or the refusal to initiate criminal proceedings;

3) A decision to terminate criminal proceedings;

4) A decision on not instituting 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;

5) A decision on rejecting a motion on recognizing a person as a participant in the proceedings;

6) A decision to apply a restraint measure;

7) A decision to forcibly bring to the body conducting the proceedings;

8) A decision on removing from the criminal proceedings or exempting from the participation in the criminal proceedings;

9) A decision on turning bail into revenues of the state;

10) A decision on rejecting or terminating the application of a special protection measure;

11) A decision of the Prosecutor General of the Republic of Armenia on not instituting criminal prosecution or a decision on terminating the criminal prosecution on the ground of a new or a newly emerged circumstance.

2. A pre-trial act shall also be subject to a judicial appeal, if it will be impossible to challenge such an act during the trial examination, or if such challenge will obviously deprive the appellant of a genuine opportunity to protect his legitimate interests.

Article 300. Procedure for Judicial Appeal against the Pre-Trial Act

1. Appeals against the pre-trial acts envisaged by Article 299 of this Code may be submitted by a private participant in the proceedings or by any other person who substantiates the disproportionate impact of such act upon his legitimate interests.

2. Appeals against the pre-trial acts envisaged by Article 299 of this Code may be submitted to the Court only in case of having brought an appeal to the competent Prosecutor and rejection of the appeal by the latter, except when the arrest or a procedural act of the Prosecutor General of the Republic of Armenia is being challenged.

3. The pre-trial acts envisaged by Article 299 of this Code may be appealed to the Court within a 15-day period. Such period shall begin:

1) On the day of receiving the rejection of the appeal submitted to the competent Prosecutor or a response which is different from granting the appeal;

2) On the day of expiration of a 15-day period following the day of submitting the appeal, if no response to the appeal has been received.

Article 301. Content of the Appeal in relation to the Pre-Trial Act

1. An appeal concerning a pre-trial act shall contain:

1) The name of the competent Court;

2) The name, patronymic, surname, and status, if any, of the appellant;

3) The year, month, and day of submitting the appeal to the Court;

4) The sequential number of proceedings, if any;

5) The procedural act that is being appealed;

6) The course and the result of the prosecutorial appeal against the procedural act that is being appealed;

7) In case of appealing against the procedural acts envisaged by Paragraph 2 of Article 299 of this Code, substantiation to the effect that challenging the act during the trial examination will be impossible or will obviously deprive the appellant of a genuine opportunity to effectively protect his legitimate interests;

8) The arguments and the claim of the appeal;

9) The list of documents attached to the appeal.

2. A document certifying that a copy of the appeal has been sent to the public participants in the proceedings who rendered (performed) the act, that is being appealed, shall be attached to the appeal, except when the legitimacy of the arrest is being challenged.

Article 302. Initiation of Proceedings for Challenging the Pre-Trial Act

1. Within a 3-day period upon the receipt of the appeal concerning a pre-trial act, the Court shall render a decision on instituting proceedings to challenge a pre-trial act, which shall indicate whether it will be conducted under written procedure or, as envisaged by Paragraph 5 of Article 264, under oral procedure. In case of conducting the proceedings under oral procedure the decision shall indicate the place, year, month, day, and time of holding the court session. The court session may be scheduled within 7 days upon institution of the proceedings.

2. The institution of the proceedings shall be rejected with substantiation, if any of the requirements set under Articles 299 to 301 of this Code has not been complied with.

3. The decision on instituting proceedings shall be promptly sent to the person who submitted the appeal and to the public participant in the proceedings who rendered (performed) the appealed act.

4. In the decision on instituting proceedings, the Court may request from the public participants in the proceedings to submit to the Court the materials relevant to the proceedings and if the examination of the appeal is conducting under oral procedure, to be present to the court session.

5. The decision on rejecting institution of proceedings shall be promptly sent to the person who submitted the appeal.

Article 303. Conduct of the Proceedings for Challenging the Pre-Trial Act

1. The proceedings for challenging the pre-trial act shall be conducted under written procedure, except for the challenging the legitimacy of the arrest and, in the cases prescribed in Paragraph 5 of Article 264, shall be conducted under oral procedure. When the proceedings are conducted under oral procedure, the proceedings shall be performed in the form of court hearings with the mandatory participation of the person who submitted the appeal or his Representative or the Defence Counsel. If none of the said persons has appeared in the court session, the Court shall decide to terminate the proceedings.

2. In case of oral procedure, the public participant in the proceedings, which rendered (performed) the challenged pre-trial act, and the Supervising Prosecutor shall be entitled to participate in the court hearings on challenging the pre-trial act. In the case specified under Paragraph 4 of Article 302 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 be entitled to provide an explanation.

4. Having concluded the court hearings, the Court shall retire to a separate room for rendering a decision. The decision in a result of the proceedings for challenging the pre-trial act shall be rendered as soon as possible after initiating the proceedings but not later than within 1 month.

Article 304. Decisions Rendered in a Result of the Proceedings for Challenging the Pre-Trial Act

1. In a result of the court hearings for challenging the pre-trial act, the Court shall render a decision on granting the appeal fully or partially or on 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 requested by the Court. The appeal may be

granted, if the public participant in the proceedings has failed to appear before the Court upon a request by the latter.

3. If the appeal is granted, the Court shall impose on the public participant in the proceedings the obligation to render (perform) a specific procedural act aimed at eliminating the violation of the rights of a person.

4. In case of oral procedure, the conclusive part of the decision shall be publicized in the Court session. The decision rendered in a result of the proceedings for challenging the pre-trial act shall be promptly provided or sent to the person who submitted the appeal, the public participant in the proceedings who rendered (performed) the challenged procedural act, the Investigator, and the Supervising Prosecutor.

Article 305. Challenging the Legitimacy of the Arrest

1. The proceedings for challenging the legitimacy of the arrest shall be conducted in a manner prescribed by this Chapter in accordance with the peculiarities specified in this Article.

2. The Court, upon the receipt of the appeal on the arrest, shall promptly render a decision on instituting proceedings for challenging the legitimacy of the arrest.

3. The Court shall examine the appeal in the court session:

1) Promptly - if has been *prima facie* founded in the appeal that there is a threat to the life of the person or that he was subjected to torture;

2) Simultaneously with examination of a submitted motion on applying detention as a restraint measure in relation to the person in question;

3) No sooner than within 5 days and no later than within 10 days - in case when no motion on applying detention as a restraint measure in relation to the person in question has been submitted.

4. In case of granting the appeal, the Court shall apply the measures specified in Paragraph 7 of Article 288 of this Code, and in case of presence of the grounds specified in Clauses 4 or 5 of Paragraph 2 of Article 288 of this Code immediately release the arrested person by its decision.

CHAPTER 41. JUDICIAL DEPOSITION OF TESTIMONY

Article 306. Scope of the Judicial Safeguard of Deposition of Testimony

1. The judicial deposition of testimony shall be performed upon a motion of the Investigator or a private participant in the proceedings, in case of a reasonable assumption on the lack of opportunity to appear for the trial examination or on the lawful failure to give testimony during the trial examination.

Article 307. A motion for Deposition of Testimony

1. The motion for deposition of testimony shall include the substantiations of its necessity, as well as the data on those participants of the proceedings, whose participation is necessary for deposition.

2. The person who submits a motion shall attach to it all the materials at his disposal that will enable the participants of deposition to properly exercise their right to cross-examination.

3. The Court shall render a decision on rejecting the motion on deposition of testimony, if it has not been substantiated or if the substantiation thereof has not been convincing.

4. In case of rejecting the motion on deposition of testimony, submission of the same motion shall be allowed if new essential arguments have been brought to substantiate the deposition.

Article 308. Decision to Perform Deposition of Testimony

1. In case of granting the motion on deposition of testimony, the Court shall render a decision to perform deposition of testimony, which shall indicate the participant of the proceedings who has submitted the motion, the names of the persons invited to testify and to participate in deposition, as well as the place, year, month, day and the time of deposition.

2. The deposition of testimony shall be scheduled within a reasonable time period following the rendering of the decision envisaged by Paragraph 1 of this Article, but no later than within 10 days.

3. The Court, when deciding on the date of deposition, shall take into consideration the time necessary for the participants in the proceedings to become prepared for performing cross-examination.

4. The decision to perform deposition of testimony shall be immediately sent to the person who submitted the motion, as well as to such participants in the proceedings, whose participation in the deposition is necessary. In addition, the materials envisaged by Paragraph 2 of Article 307 of this Code, shall be sent to such participants.

Article 309. Procedure for Deposition of Testimony

1. Deposition of testimony shall be performed in a Court session, in compliance, *mutatis mutandis,* with the requirements of Section 8 of this Code.

2. The failure by a duly notified participant in the Proceedings to appear shall not be an obstacle for performing a deposition. If a duly notified Defence Counsel has failed to appear in the court session once, the court hearings shall be postponed.

3. The Court shall ensure observance of the procedure of questioning envisaged by this Code, as well as the exercise of the right to cross-examination during the deposition of testimony. The Court shall be empowered to ask clarifying questions to the participants in deposition proceedings as well as questions related to guaranteeing the fundamental rights of private participants in the proceedings.

4. In a result of deposition of testimony and in compliance with the relevant requirements of this Code, a protocol on the deposition of testimony shall be composed, to which the electronic medium with audio-visual recording protocol of the court session shall be attached. The protocol on deposition of testimony shall be signed by the participants in deposition, and the Presiding Judge shall approve it with his seal.

5. The Investigator, if necessary, based on the audio-visual recording of the court session on deposition of testimony, shall compose and sign the protocol on the transcription of the deposited testimony by attaching to the Protocol. The paper-based version of the deposited testimony may be used in the evidentiary proceedings if it is in line with the content of the audio-visual recording.

SECTION 10. COURT EXAMINATION AT THE FIRST INSTANCE

CHAPTER 42. PRELIMINARY COURT HEARINGS

Article 310. Scheduling of Preliminary Court Hearings

1. Preliminary Court hearings shall be mandatory in all criminal proceedings.

2. Within a 3-day period upon the receipt of the criminal case file, the Judge shall render a decision on assuming the proceedings and scheduling the preliminary court hearings.

3. If the time period envisaged by Paragraph 2 of Article 206 of this Code has not been complied with, the Court, without rendering a decision on conducting preliminary court hearings, shall remit the criminal case file to the Supervising Prosecutor for considering the issue of the restraint measure and transferring the case to the Court again.

4. The decision envisaged by Paragraph 2 of this Article shall contain information on the Court and the Judge that rendered it, the date of receiving the case and of rendering such decision, and as well as on the place and date and time of the preliminary court hearings.

5. The first court session on the preliminary hearings shall be scheduled within a 2-week period upon rendering of the decision envisaged by Paragraph 2 of this Article.

6. Within a 3-day period upon rendering of the decision envisaged by Paragraph 2 of this Article, the Judge shall send its copy to the Public Prosecutor, as well as to the private participants in the proceedings, attaching to it a memorandum of the established form concerning the rights and obligations of the addressee. The memorandum shall also contain the list of issues envisaged by Article 311 of this Code and clarification of the right to submit motions in relation to them.

Article 311. Issues Subject to Discussion during the Preliminary Court Hearings

1. During the preliminary court hearings, the Court, in the sequence order envisaged by this Article, shall discuss the following:

1) The issue of self-recusal, recusal, and exemption from participation in the proceedings;

2) The issue of the Court jurisdiction over the proceedings;

3) The issue of terminating the criminal prosecution or terminating the proceedings;

4) The issue of application of a restraint measure in relation to the Accused;

5) In case when a property claim has been initiated - the issue of recognizing as a Property Respondent;

6) In case of such a motion - the issue of application of the agreement proceedings or application of the special trial procedure under the cooperation proceedings;

7) The issue of the volume of evidence subject to examination;

8) The issue of admissibility of the evidence;

9) Other relevant issues.

Article 312. Procedure for Conducting the Preliminary Court Hearings

1. Preliminary court hearings shall be conducted by a single Judge, with participation of the Public Prosecutor and the private participants in the proceedings, with application, *mutatis mutandis,* of the provisions of Section 8 of this Code, taking into consideration the peculiarities envisaged under this Chapter.

2. After opening the court session and having heard the report about the participants in the court session in accordance with the procedure envisaged by this Code, the Presiding Judge shall check the identity of the participants in the proceedings and the propriety of their authorities.

3. Thereafter, the Court shall check whether a copy of the indictment has been provided to the Accused. If such document has not been provided to the Accused, the Court

shall postpone the court session for 3 days and oblige the Public Prosecutor to provide a copy of the indictment to the Accused promptly.

4. The court session shall also be postponed if the indictment does not correspond to the requirements of Article 202 of this Code. When postponing the court session based on this ground, the Court shall oblige the Public Prosecutor to bring the indictment into correspondence with the requirements of Article 202 of this Code within the time period set by the Court, to present it to the Court, and to provide its copy to the participants in the court proceedings. If the Accused is under detention, the time period set by the Court shall be no longer than 3 days or, in other cases, not longer than 7 days.

5.If the grounds envisaged 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 310 of this Code and the memorandum envisaged by Paragraph 6 of Article 310 of this Code. If such documents have not been received, they shall be provided promptly.

6. Upon a motion of a party or on its own initiative, the Court shall provide the participant in the proceedings with the necessary clarifications on his rights and obligations.

Article 313. Discussion of the Issue of Self-Recusal, Recusal, and Exemption from Participation in the Proceedings

1. During the preliminary court hearings, the issues of self-recusal, recusal, or exemption from participation in the proceedings shall be discussed and resolved in cases and in the manner prescribed by Chapter 8 of this Code.

2. If during the preliminary court hearings the presence of a ground precluding participation of the Judge in the proceedings is established, the Judge shall render a decision on self-recusal or on accepting the recusal submitted against him, and shall transfer the criminal case file to the Chairman of the respective Court.

Article 314. Discussion of the Issue of the Court Jurisdiction over the Proceedings

1. If during the preliminary court hearings Court establishes that the proceedings do not fall within its jurisdiction, then it shall render a decision on transferring the proceedings to the Court that has such jurisdiction, indicating the legal grounds for such a decision and the Court to which the proceedings are being sent.

Article 315. Discussion of the Issue of Termination of the Criminal Prosecution and of Termination of the Proceedings

1. In case of presence of any of the circumstances envisaged by Clauses 3 to 14 of Paragraph 1 of Article 12 of this Code, and provided that it can be done without examination of the evidence, the Court shall render a decision on termination of the criminal prosecution and termination of the proceedings. If the circumstance precluding the criminal prosecution is in relation to one of the Accused persons, then the criminal prosecution shall be terminated only in relation to such person without termination of the proceedings.

2. The decision on termination of the criminal prosecution shall eliminate the compulsory measures applied in relation to the given Accused, and, in case of a termination of the proceedings, also the compulsory measures applied in relation to other persons as well. The decision on termination of the proceedings shall also resolve the issue of the disposal of the physical evidence.

3. A copy of the decision on termination of the criminal prosecution and on termination of the proceedings shall be sent to the Public Prosecutor and to the private participants in the proceedings.

Article 316. Discussion of the Issue of Application of a Restraint Measure in relation to the Accused

1. During the preliminary court hearings, the Court shall put under discussion the issue of termination, substitution of a restraint measure, or the issue of prolongation of the term of the restraint measure applied in relation to the Accused during the pre-trial

proceedings and, if a restraint measure has not been applied, the issue of application of a restraint measure.

Article 317. Discussion of the Issue of Recognizing as a Property Respondent

1. During the preliminary court hearings, the Court, based on a property claim instituted under the procedure envisaged by Chapter 20 of this Code, shall resolve the issue of recognizing a person as a Property Respondent.

2. In case of necessity of application of an interim measure for the protection of the claim, the issue shall be resolved by the decision on recognizing as a Property Respondent.

3. In case of recognizing a person as a Property Respondent, the Court shall send to him the copies of the claim and of the attached materials, as well as the copy of the decision on recognizing as a Property Respondent and a memorandum of the established form concerning the rights and obligations of the Property Respondent. The memorandum shall also contain the list of the issues envisaged by Paragraph 1 of Article 311 of this Code and clarification of the right to submit motions in relation to them.

4. In case of recognizing a person as a Property Respondent, the court hearings shall be postponed by a reasonable time, providing the Property Respondent with opportunity to exercise his rights prescribed under this Code. At the same time, the Court shall decide on the date and time of the next court session and give proper notice thereof to the parties, including the Property Respondent.

Article 318. Discussion of the Issue of Application of the Agreement Proceedings or Application of the Special Trial Procedure under the Cooperation Proceedings

1. In case of a submission by the Accused of a motion on application of the agreement proceedings, the Court shall conduct a discussion of the issues envisaged by Chapter 55 of this Code.

2. In case of a submission by the Public Prosecutor of a motion on application of the special trial procedure under the cooperation proceedings, the Court shall conduct a discussion of the issues envisaged by Chapter 56 of this Code.

Article 319. Discussion of the Issue of the Volume of Evidence Subject to Examination

1. During the preliminary court hearings, the parties, upon the request by the Court, shall present their proposals regarding the scope of the evidence subject to examination in the principal court hearings. 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 item of evidence proposed by it for examination.

2. The Court shall render a decision in case of rejecting proposal by the party regarding the examination of any evidence.

3. After discussing and resolving all the proposals envisaged by Paragraph 1 of this Article, the Court shall render a decision on determining the volume of evidence, fixing the sequence order of examination of the evidence during the principal court hearings 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 during the principal court hearings, the Court shall abide by the following rules:

1) At first, the evidence submitted by the prosecution party shall be examined, followed by the evidence submitted by the defence party;

2) The evidence submitted by the Victim or his representative shall be examined after examining the evidence submitted by the Public Prosecutor;

3) The evidence submitted by the Property Respondent or his representative shall be examined after examining the evidence submitted by the Accused and the Defence Counsel;

4) If several Victims, Accused persons, or Property Respondents participate in the proceedings, then the sequence order of examining the evidence submitted by them shall be determined by the Court, taking into consideration the opinions of the parties.

5. The volume of evidence subject to examination may be supplemented in a manner prescribed under Article 334 of this Code.

Article 320. Discussion of the Issue of Admissibility of Evidence

1. After determining in a manner prescribed under Article 319 of this Code the volume of evidence subject to examination, the Court, upon a respective motion submitted by the parties, or on its own initiative, shall discuss and resolve, in accordance with the procedure envisaged by this Code, the issue of admissibility of the evidence.

2. When discussing the issue of admissibility of the evidence, there shall be no substantive examination of such evidence. If the decision resolving the issue of admissibility of evidence requires substantive examination of the evidence in question or any other evidence, then the resolution of the issue on finding the evidence inadmissible shall be postponed and performed during the principal court hearings in a manner prescribed under Article 335 of this Code.

3. The Court shall render a decision on finding the evidence inadmissible.

4. The inadmissible evidence shall be taken out of the list of evidence subject to examination, but shall be retained in the criminal case file.

Article 321. Discussion of Other Relevant Issues

1. Once the issues envisaged under Clauses 1 to 8 of Paragraph 1 of Article 311 of this Code, have been discussed and resolved, the parties shall be entitled to submit a motion on examination during the preliminary court hearings of other relevant issues, as well.

2. The Court, on its own initiative, may put any other relevant issues for discussion during the preliminary court hearings.

Article 322. Scheduling of the Principal Court Hearings

1. After completing the discussion of all the issues envisaged by Paragraph 1 of Article 311 of this Code, the Court shall render a decision on scheduling the principal court hearings.

2. The decision on scheduling the principal court hearings shall contain the sequential number of the proceedings, relevant data about the Accused, the legal assessment of the act attributed to the Accused (the relevant Article, Paragraph or Clause of an Article of the Criminal Code of the Republic of Armenia), as well as information about the publicity of the principal court hearings and the time and place of holding the first court session.

3. The first court session shall be convened within 2-week period upon rendering the decision on scheduling the principal court hearings. In the meantime, the Court shall take measures to ensure the proper conduct of the principal hearings.

CHAPTER 43. PRINCIPAL COURT HEARINGS

Article 323. Beginning of the Principal Court Hearings

1. The principal court hearings shall begin with opening a court session and hearing a report on the participants in the proceedings under the procedure envisaged by Paragraph 2 of Article 266 of this Code. Thereafter, the Presiding Judge shall instruct the Witnesses who have appeared in the court session to leave the courtroom until 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 as well as to other persons present in the courtroom.

Article 324. Opening Speeches of the Parties

1. Prior to the beginning of the examination of evidence, opening speeches shall be made by, firstly, the Public Prosecutor, and then - by the Defence Counsel or the Accused performing his own defence, if the Defence Counsel or the Accused, respectively, so wishes.

2. In his opening speech, the Public Prosecutor shall present the factual basis of the charges, as well as the legal assessment of the act attributed to the Accused.

3. In its opening statement, the defence party shall present its position regarding the charges. The Presiding Judge shall be empowered to ask questions clarifying the position of the Accused.

4. Immediately upon presentation of the opening speeches, the Court shall proceed to examination of evidence.

Article 325. General Rules for Examination of Evidence

1. The evidence shall be examined in the sequence and order prescribed for the preliminary court hearings.

2. A party shall have the right to present the physical evidence included in the list of evidence presented by it and subject to examination, or the protocols of evidentiary and other procedural actions, or of extra-procedural 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 evidentiary other procedural actions, or extra-procedural documents to the questioned person, without any examination, and pose questions thereon.

4. Each party shall have the right, during the examination of the evidence, to submit a motion to the Court requesting to limit further examination of the evidence presented by it. The Court shall reject the motion, if it finds that it can cast doubt on the fairness of the proceedings.

Article 326. General Procedure for Questioning

1. Prior to the beginning of the questioning, the Presiding Judge shall determine the identity of the questioned person and his relationship with the participants in the proceedings, and explain his rights and obligations under this Code in respect of giving testimony, as well as the liability prescribed for the failure to fulfil such obligations. To this end, the questioned person shall place his signature in the protocol of the court session.

2. Prior to the beginning of the questioning the questioned person shall make oral statement with the following content: "I, [Nam and Surname], while giving testimony will tell the truth, the whole truth, and nothing else but the truth."

3. A person called for questioning shall be first questioned by the party that submitted the motion to invite the person (direct examination). After the direct examination, the person may be questioned by the other party (cross-examination). The Presiding Judge shall have the right to pose questions to the person after the completion of the direct and cross-examinations. A person called upon the initiative of the Court shall be first questioned by the Presiding Judge, followed by the prosecution party and the defence party.

4. Posing leading questions shall be prohibited during the direct examination. A party may object to a leading question. The Presiding Judge, upon a motion by the party or on his own initiative, may remove leading questions or questions not related to the proceedings.

5. Posing leading questions shall be lawful during the cross- examination.

6. The questioned person may use notes or records while being questioned, which shall be presented to the Court if requested so by the Presiding Judge and may be attached by the latter to the materials of the proceedings.

7. After examining all of the presented evidence, the person who testified in Court, may be questioned again, based on a motion by the party or upon the initiative of the Court.

Article 327. Special Procedure for Questioning

1. In those exceptional cases when because of the health conditions or being beyond the borders of the Republic of Armenia the presence of the person subject to questioning in Court is impossible or can threaten the security of such person or jeopardize the credibility of the testimony, or when there is a need for protection of the legitimate interests of a minor Victim or Witness, the Court, upon a motion by the party or on its own initiative, may 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 to see each other clearly shall be ensured during the questioning performed via video conferencing.

3. Questioning performed at the location of the questioned person via video conferencing shall be ensured by a person chosen by the Court.

4. Before starting the questioning via video conferencing, the Presiding Judge shall announce:

1) The date and time of performing the questioning, as well as information as to within the framework of which proceedings such questioning is being performed;

2) The location of the questioned person, if disclosing such information cannot jeopardize the security of the questioned person;

3) The name, surname and patronymic, and the status of the questioned person;

4) The name and surname of the authorized official ensuring the performance of the questioning;

5) The technical means used during the questioning.

5. After completion of the questioning under a special procedure, the Presiding Judge shall ask the parties whether they have any objections in relation to the manner or the course of performing the questioning.

6. The electronic medium of the video recording of the questioning performed via video conferencing shall be attached to the protocol of the court session.

Article 328. Peculiarities of the Questioning Procedure Depending on the Status of the Questioned Person

1. Witnesses shall be questioned separately from one another and in absence of the Witnesses not questioned yet. By a motion of the Party or upon his own initiative, the Presiding Judge may request a questioned witness not to leave the courtroom until the end of the court session.

2. If a special protection measure envisaged by Article 76 of this Code has been applied to 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. In order to ensure the exercise of the right to defence of the Accused person's or the fairness of the proceedings, the Court, by a motion of the party, may provide such party with such real data about the questioned person, the discovery of which cannot threaten the security of that person or the person close to him.

3. If the Victim also has the status of an Accused, then he shall be questioned in accordance with the rules of questioning the Accused.

4. Questions shall be posed to the Expert after examination of the conclusion or opinion issued by him.

5. The Accused may be questioned if one of the parties has submitted such a motion, and the Accused had confirmed, during the preliminary court hearings, his intention to give testimony. The Accused may declare his wish to give testimony at any time during the evidence examination.

Article 329. Peculiarities of Questioning a Minor Victim or a Minor Witness

1. The Legal Representative of a minor Victim or of a minor Witness may participate in questioning of the given Victim or Witness.

2. By a motion of the party or upon the court's own initiative, the questioning of a minor Victim or a minor Witness shall be performed with participation of a Psychologist.

3. Upon the recommendation of the Psychologist, the minor Victim or minor Witness shall not be questioned if there is a need for protection the legitimate interests of the Minor, and the defence party was provided with the opportunity during pre-trial proceeding to ask questions to the Minor.

4. 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.

5. At the end of the questioning, the Legal Representative shall have the right, upon the permission of the Presiding Judge, to pose questions to a minor Victim or Witness.

Article 330. Publicizing of the Testimony

1. Upon the motion of a party and based on the decision of the Court, the publicizing of the testimony given during the pre-trial proceedings or in Court in compliance with the requirements prescribed by this Code, as well as of the attachments thereto (drawings, sketches, layouts, photos, audio and video recordings, video shoots, and films) shall be permitted if:

1) The testimony of the person was deposited during the pre-trial proceedings in accordance with the requirements of this Code;

2) There is an essential inconsistency between the in-court testimony and previously given testimony of the person;

3) The Accused has lawfully refused to give testimony in Court in exercise of his constitutional right;

4) The Witness or the Victim has unlawfully refused to be testified before the Court;

5) The person has deceased or has lost his communication ability, and there was no reasonable need for depositing the testimony of the given person on the ground of a severe illness during the pre-trial proceedings.

6) In the case prescribed by Paragraph 3 of Article 329 of this Code.

2. The testimony given during the pre-trial proceedings by the Accused may not publicized if it was obtained in the absence of the Defence Counsel and the Accused withdrew it in the Court.

3. The previously given testimony of the person may be publicized only after completion of his questioning or confirmation of impossibility of such questioning in Court. Examination of the attachments to the testimony shall be prohibited prior to the publicizing of the testimony.

4. The relevant part of the testimony shall be publicized by the party submitted such motion. The other party may draw Court's attention on the essential factual circumstances in those parts of testimony which is not publicized by publicizing them.

Article 331. Examination of Physical Evidence, Protocols of Evidentiary and Other Procedural Actions, and of Extra-procedural Documents

1. Physical Evidence shall be examined by means of observation. The party that had submitted 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 essential factual circumstances discovered as a result of observation of the physical evidence. Physical evidence located outside the courtroom shall be examined at the place of its location.

2. The protocol of an evidentiary or other procedural action, as well as the extra-procedural documents shall be examined by means of their publicizing. Publicizing, in the relevant portion, shall be performed by the party that had submitted it. The other party shall have the right to draw the Court's attention to essential factual circumstances in the non-publicized portion of the respective protocol or other document, and publicize them.

3. The objects and documents received in compliance to the Court's request upon a motion of the party shall be examined under the procedure prescribed by Paragraphs 1 and 2 of this Article. Objects received upon the initiative of the Court shall be first observed by the Presiding Judge, followed by the prosecution and defence parties. The relevant portion of the document obtained upon the initiative of the Court shall be publicized by the Presiding Judge.

4. When, in a result of examination of the physical evidence or the protocol of an evidentiary or other procedural action, as well as of the extra-procedural documents, the Party challenges its admissibility, or the Court has developed a reasonable suspicion regarding the credibility of the respective evidence, then, based on decision of the Court, the person who had obtained or composed such evidence may be invited for questioning and questioned under the rules prescribed for questioning of witnesses.

5. When there is a *prima-facie* violation of the procedure for obtaining and documenting evidence as defined by Paragraph 4 of this Article, such evidence may not be used without having the person who had obtained or composed it, questioned.

Article 332. Examination of the Conclusion of the Expert and of the Opinion of the Expert

1. The conclusion of the Expert and the opinion of the Expert shall be examined by means of publicizing. Publicizing of the relevant portion shall be performed by the party that had submitted it. The other party shall have the right to draw the Court's attention to essential factual circumstances in the non-publicized portion of the respective document, and publicize them.

2. The conclusion of the Expert received in compliance to the Court's request upon a motion of the party shall be examined under the procedure prescribed by Paragraph 1 of this Article. The relevant portion of the conclusion of the Expert obtained upon the initiative of the Court shall be publicized by the Presiding Judge.

3. In case when a party has submitted a motion to perform questioning of the Expert who had issued the conclusion or opinion, such evidence may not be used without having such expert questioned.

Article 333. Performance of Other Evidentiary Actions

1. The court, upon the motion of a party or on its own initiative, shall be empowered to order an expert examination in compliance with the relevant rules prescribed by Articles 252 to 258 of this Code.

2. The party ordering an expert examination shall submit, in writing, the questions to be posed to the Expert, information about the expert institution or the person to be involved as an expert, and the objects or documents needed for the expert examination.

3. When the expert examination is ordered upon the initiative of the Court, the Presiding Judge shall propose to the prosecution and defence parties to submit the questions to be posed to the Expert, as well as to express an opinion about the potential expert

institution or the Expert and the objects or documents to be submitted for expert examination.

4. The Court, upon the motion of a party or on its own initiative, shall have the authority to request from the state and local self-government bodies and officials, natural and legal persons and other organizations any objects, documents, or information needed for the fair conduct of the proceedings. Objects and documents received upon the Court's request shall be examined under the procedure prescribed by Article 331 of this Code.

5. The Court, upon the motion of a party or on its own initiative, shall be empowered to perform inspection or examination of the site, building, or vehicle, experiment, recognition, and exhumation, unless such evidentiary actions were performed during the pre-trial proceedings, or if the Court considers that examination of the protocols composed during the pre-trial proceedings in relation to performance of those actions will be insufficient for the fairness of the proceedings.

6. The actions envisaged in Paragraph 5 of this Article shall be performed in compliance with the relevant rules envisaged by this Code, with participation of the parties and, if the Court so decides, also the Witness and the Expert.

Article 334. Supplementing the Volume of Evidence Subject to Examination

1. After examination of all the evidence submitted, the Court shall ask the parties whether they will submit a motion to supplement the volume of the evidence subject to examination.

2. In case of submitting a motion to supplement the volume of the evidence subject to examination, the party shall substantiate what additional evidence is to be examined for confirmation or rebuttal of which factual circumstance.

3. The Court shall render a decision in case of rejecting the motion. In case of granting the motion, the evidence examination shall continue.

4. When a motion to supplement the volume of evidence subject to examination is not initiated, or if it is rejected by a decision, the Court shall be empowered, on its own initiative, to put under discussion the issue of supplementing the volume of the evidence

subject to examination. The court shall take measures aimed at supplementing the volume of the evidence subject to examination, if it considers that the failure to do so may cast doubt on the fairness of the proceedings.

Article 335. Discussion of the Issue of Inadmissibility of Evidence

1. After examination of all the evidence, the Court shall ask the parties whether they will submit a motion to find any of the examined evidence inadmissible.

2. In case of granting the motion, the Court shall render a decision, in the form of a standalone document, on finding the given evidence inadmissible, and in case of rejecting the motion, the Court shall render a decision.

3. After discussing and solving the issue of the motions envisaged by Paragraph 1 of this Article, the Court shall be empowered, on its initiative, to put under discussion the issue of finding any of the examined evidence inadmissible. The decision on finding the evidence inadmissible shall be rendered in a form of a standalone document.

Article 336. Completion of Examination of Evidence

1. After discussing and resolving the issue of inadmissibility of evidence, as well as in case of absence of the motion by the Public Prosecutor to modify or supplement the charges, the Court shall complete examination of the evidence and announce about proceeding to the closing arguments of the parties.

2. The Court shall clarify to the parties that the parties in their closing arguments, and the Court while rendering a judicial act, may rely only on such evidence that has been examined during the trial examination and may not refer to or use the evidence found inadmissible.

3. Having heard the opinions of the parties, the Court shall give them reasonable time to prepare for the closing arguments.

Article 337. Content and Procedure of Closing Arguments

1. The closing arguments of the parties shall consist of the speeches of the Public Prosecutor and the Defence Counsel. If no Defence Counsel participates in the Court Proceedings, the Accused shall make a closing argument.

2. In case of initiating such a motion, the Victim, his Representative, the Accused, his Legal Representative, or the Property Respondent or his Representative may make closing arguments.

3. The closing arguments shall start with the speech of the Public Prosecutor, followed by the speeches of other representatives of the prosecution party. Immediately after that, the closing arguments of the representatives of the defence party shall follow.

4. If several Public Prosecutors, Defence Counsels, Accused persons, Victims, Property Respondents, or several of their representatives are to make closing arguments, then the Presiding Judge shall propose that they determine the order of presenting their arguments. If these persons do not reach an agreement on the order of presenting their closing arguments, it shall be determined by the Court.

5. In their speeches, the parties may not rely on evidence that was not examined prior to the beginning of the closing arguments or the evidence that has been found inadmissible, except for the cases prescribed under paragraph 1 of Article 340 of this Code.

6. The Presiding Judge may interrupt the person making an argument, if he refers to the circumstances not related to the proceedings or to the evidence that has not been examined or has been found inadmissible prior to the beginning of the closing arguments.

7. After the completion of all the arguments, every person who has made a closing speech shall have the right to briefly and once present his comments about issues raised therein. The Defence Counsel and the Accused shall be the last to exercise this right.

Article 338. Discussion of the Issue of Application and Interpretation of the Law

1. A person who has made a closing argument shall have the right, before the Court's retiring to a separate room, to submit to the Court, in writing, the substantiation or

wording suggested by him concerning the application and interpretation of the law in relation to the issues to be resolved by the Court under Paragraphs 1 or 3 of Article 342 of this Code, but such suggestion shall not be binding for the Court.

2. The Court may pose questions to the persons that have made closing arguments about the examined factual circumstances in relation to the application or interpretation of the law.

3. After hearing all the closing arguments, the Court may hold a separate consultation on the application or interpretation of the law, with mandatory participation of the Public Prosecutor, the Defence Counsel, and in case of his participation, also the Authorized Representative of the Victim.

4. When putting under discussion any of the issues related to application or interpretation of the law in a manner prescribed by Paragraphs 2 and 3 of this Article, the Court shall be obliged to refrain from expressing a position on the charges.

Article 339. Closing Speeches of the Accused

1. After hearing the closing arguments, the Presiding Judge shall offer that the Accused makes a closing speech. The Accused may waive the exercise of such right. It shall not be allowed to ask questions to the Accused during delivery of his closing speech.

2. The Presiding Judge shall be empowered to interrupt the Accused, if he touches upon the circumstances that are obviously not related to the proceedings.

Article 340. Resumption of Examination of Evidence

1. If a participant in the proceedings during his closing argument, or the Accused in his closing speech, provides new circumstances of essential significance to the proceedings or presents for examination new evidence previously unknown to him, the Court shall be empowered, before retiring to a separate room, to render a decision on resumption of the examination of evidence in view of the need of fairness of the proceedings.

2. After completion of the resumed examination of evidence, the Court shall again proceed to hearing the closing arguments of the parties and the closing speech of the Accused.

Article 341. Retiring of the Court to a Separate Room

1. After hearing the closing speech of the Accused, the Court shall announce the completion of the principal court hearings and retire to a separate room for rendering the verdict, announcing the place, date, and time of its publicizing.

Article 342. Issues Subject to Resolution by the Court when Rendering the Verdict

1. When rendering a verdict, the Court shall resolve the following issues in the order presented below:

1) Whether the factual circumstances (act) attributed to the Accused have been proven;

2) Whether the criminal illegitimacy of such act has been proven;

3) Whether the commission of such act by the Accused has been proven;

4) Whether the guilt of the Accused in committing such act has been proven.

2. 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.

3. In case of giving affirmative answers to all the questions stated in Paragraph 1 of this Article, the Court shall render a guilty verdict, in which it shall also specify which Article, Paragraph, or Clause of the Criminal Code, are to be applied to the act proven.

4. A guilty 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 trial examination. The guilt of the Accused in committing the crime may be deemed proven, if the Court, guided by the presumption of innocence and based on the results of the proper proving, reaches a conclusion on the guiltiness of the Accused.

5. In a case, when the issue of culpability of the Accused or his ability to account for and control his actions during the proceedings arose during the preliminary

investigation or the trial examination, in respect of which issues a conclusion of a psychiatric forensic examination has been obtained, the Court when rendering the verdict, shall address the issue of the culpability of the Accused separately.

Article 343. Resumption of the Principal Court Hearings

1. If the Court, while discussing the issues stated in Paragraphs 1 and 5 of Article 342 of this Code, finds that their resolution requires examination of evidence, then it shall render a decision on resumption of the examination of evidence. After completion of the resumed examination of evidence, the Court shall again hear the closing arguments of the parties and the closing speech of the Accused, after which it shall again retire to a separate room for rendering the verdict.

2. If the Court, while discussing the issue mentioned in Paragraph 3 of Article 342 of this Code in a separate room, finds that its fair resolution requires putting any issue of application or interpretation of the law under discussion by the parties, then the Court shall render a decision on resumption of the closing arguments. After posing questions to the parties and hearing their opinions thereon, the Court shall again retire to a separate room for rendering the verdict.

3. If the Court, while discussing the issue mentioned in Paragraph 5 of Article 342 of this Code in a separate room, develops a reasonable suspicion that the Accused, when committing a crime was in a state of insanity, or that after the commission of the crime mental health issue has arisen which deprived the Accused of an opportunity to account for and control his actions, then the Court shall render a decision on resumption of the closing arguments. After posing questions to the parties and hearing their opinions thereon, the Court shall again retire to a separate room for rendering the verdict or shall render a decision on transforming the criminal proceedings into the proceedings on application of compulsory medical measures.

Article 344. Publicizing of the Verdict

1. The verdict shall be composed in writing and publicized in a court session.

2. After publicization of the verdict, the Court shall set the year, month, date and time of the first court session under supplementary court hearings, as well as inform the parties that they shall have the right, prior to the next court session, to submit motions to the Court on the evidence subject to examination for resolution of the issues prescribed by Paragraph 1 of Article 345 of this Code.

3. If an acquitting verdict has been rendered, the Court shall immediately release the Accused under detention from the courtroom.

4. If a guilty verdict has been rendered, the Court shall be empowered to apply a restraint measure in respect of the Accused or to substitute a restraint measure already applied.

5. The first court session under the supplementary court hearings shall be scheduled within a 2-week period.

CHAPTER 44. SUPPLEMENTARY COURT HEARINGS AND RENDERING OF THE JUDGMENT

Article 345. Issues Subject to Discussion during the Supplementary Court Hearings

1. During the supplementary 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 the circumstances characterizing him as a person;

3) Issues related to the punishment;

4) The issue of solving the property claim;

5) The issue of compensating damages inflicted by the crime;

6) Issues related to the confiscation of property;

7) Issues related to the attachment of the property;

8) Issues related to preservation and disposal of evidence;

9) Issues related to application of a restraint measure;

10) Issues related to the costs of proceedings;

11) Other relevant issues.

2. The issue specified in Clause 1 of Paragraph 1 of this Article shall be discussed only in case of an acquitting verdict. The issues envisaged by Clauses 2, 3, 5 and 6 of Paragraph 1 of this Article shall be discussed only in case of a guilty verdict.

Article 346. Procedure for Conducting Supplementary Court Hearings

1. Supplementary court hearings shall be conducted by a single Judge, with participation of the Public Prosecutor and the private participants in the proceedings, with application, *mutatis mutandis,* of the provisions of Section 8 of this Code, taking into consideration the peculiarities envisaged under this Chapter.

2. The absence of the properly notified Public Prosecutor and private participants in the proceedings shall not be an obstacle for conducting the supplementary court hearings, unless the Court decides otherwise. Participation of the Accused who is kept under custody in the supplementary court hearings shall be mandatory in any case.

3. After opening the court session in accordance with the procedure stipulated by this Code, the Court shall proceed to discussion of the issues envisaged under Article 345 of this Code and to examination of the evidence necessary for that. In any event, the admissible and not examined evidence that are present in the criminal case file shall be examined, if they concern the issues envisaged by Article 348 of this Code.

4. After completing the discussion of the issues envisaged by Article 345 of this Code, the Court shall announce the year, month, place, date, and time of publicizing the judgment and shall retire to a separate room for rendering the judgment.

Article 347. The Judgment

1. The judgment shall be rendered in the name of the Republic of Armenia.

2. The judgment shall be legitimate and grounded.

3. The judgment shall be legitimate if rendered in compliance with the requirements of the Constitution, this Code, and other international treaties or the laws, the provisions of which are applicable to the conduct of the proceedings in question.

4. The judgment shall be grounded if:

1) The conclusions of the Court are based only on the examined admissible evidence;

2) The factual circumstances considered by the Court as established or rebutted correspond to the evidence examined in the Court;

3) All the conclusions and adjudications stated in the judgment are properly reasoned.

5. The judgment may be an acquitting judgment or a guilty judgment.

6. The acquitting judgment shall be rendered on the basis of an acquitting verdict. The acquitting judgment shall find and declare the innocence of the Accused in commission of the crime under the factual circumstances laid into the basis of the charges.

7. The guilty judgment shall be rendered on the basis of a guilty verdict and shall contain the decision of the Court on finding the Accused guilty of commission of the crime and sentencing him and, in the cases envisaged by this Code, on non-imposing punishment or exempting therefrom.

Article 348. Content of the Judgment

1. The 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 criminal illegitimacy of such act has 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 Clause of the Criminal Code is to be applied to the act of the 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 punishment for the crime committed by him;

9) What punishment is to be imposed in respect of the convicted Accused;

10) Whether the convicted Accused shall serve the punishment imposed on him;

11) Whether the property claim is to be granted, in whose favour, and to what extent, and whether the inflicted pecuniary damages are subject to compensation, if a property claim has not been instituted;

12) Which property is subject to confiscation and to what extent;

13) Whether the attachment of the property applied will be terminated or, if no attachment of property has been applied, whether it is to be applied;

14) How the evidence are to be retained and disposed;

15) Whether any restraint measure is to be terminated, substituted, or applied in respect of the convicted Accused;

16) Upon whom and in what amount the costs of the proceedings will be imposed.

2. When rendering a judgment, the Court, based on the proven validity of the grounds and the amount of the property claim, shall grant the initiated claim fully or partially or reject it or leave it without resolution. In case of granting the property claim, the Court shall be entitled, prior to the entry of the judgment into legal force, to render a decision on undertaking interim measures for securing the claim, unless such measures had been undertaken earlier.

3. When rendering a judgment, the Court shall be empowered to apply, if necessary, the security measures prescribed under the Criminal Code of the Republic of Armenia.

4. In case of several Accused persons, the answers to all the relevant questions prescribed under this Article shall be stated separately for each of the Accused persons.

Article 349. Structure of the Judgment

1. The judgment shall consist of the introductory part, the descriptive part, the reasoning part, and the conclusive part.

2. The introductory part of the judgment shall state:

1) That the judgment has been rendered in the name of the Republic of Armenia;

2) The time and the place of rendering the judgment;

3) The name and composition of the Court, the Secretary of the court session, the Public Prosecutor, and the private participants in the proceedings;

4) The name, patronymic, surname, the year, month, day, and place of birth of the Accused, his family status, place of work, occupation, education, and other relevant information;

5) The Article, Paragraph, or Clause of the Criminal Code prescribing the crime for the commission of which the charges were brought against the Accused.

3. The descriptive part of the judgment shall state:

1) The factual description of the charges;

2) The admissible evidence examined during the trial examination;

3) The Court's factual analysis;

4) The factual circumstances established or rebutted by the Court based on the examined evidence.

4. The reasoning part of the judgment shall state:

1) The law being applied, including the international treaties;

2) The Court's legal analysis;

3) The Court's conclusions and the substantiations thereof;

4) The norms 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;

2) The procedure for appealing the judgment.

6. The Presiding Judge shall sign each page of the judgment.

Article 350. Publicizing of the Judgment

1. The judgment shall be publicized at the pre-announced place and time. Everyone present in the courtroom shall stand while listening to the judgment.

2. The Presiding Judge shall publicize the judgment fully or only in its conclusive part.

3. If a private participate in the proceedings does not master the language of the proceedings, then the Interpreter shall interpret the conclusive part of the judgment while the judgment is being publicized.

4. After publicizing of the judgment, the Presiding Judge shall clarify the procedure and time period of appealing the judgment, and provide other necessary clarifications.

5. If the convicted Accused is under detention, then the Court, in case of exempting him from punishment or from serving thereof, as well as in cases of not applying the punishment conditionally, postponing the enforcement of the punishment, imposing a punishment not connected with deprivation of liberty or sentencing the Accused to such a term of a punishment connected with deprivation of liberty that does not exceed the time of being *de facto* deprived of liberty, shall promptly release him from the courtroom.

6. Not later than within 5 days upon the publicizing of the judgment, its copy shall be sent to the convicted or acquitted Accused, his Defence Counsel, the Public Prosecutor, as well as to the Victim, the Property Respondent or their representatives.

Article 351. Supplementary Decision of the Court

1. If relevant grounds are present, the Court shall be obliged to render, along with the judgment, a supplementary decision drawing the attention of the respective officials of the state body to the essential violations identified during the trial examination which have been committed during the pre-trial proceedings.

2. The supplementary decision, shall be publicized in the court session.

3. The supplementary 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. The official who has received a supplementary decision shall be obliged, no later than within a 1-month period upon its receipt, to discuss it and, in case of agreeing with the decision, take appropriate measures aimed at elimination of the violations identified or at preclusion of similar violations.

4. The results of examination of the supplementary decision shall be made available to the public.

SECTION 11. JUDICIAL REVIEW

CHAPTER 45. GENERAL TERMS OF JUDICIAL REVIEW

Article 352. Framework of Judicial Review

1. Judicial review may be performed only within the framework envisaged by this Article.

2. Appellate review shall be applied when the following acts rendered by the First Instance Court that have not entered into legal force are appealed:

1) Judgment;

2) Decision on termination of the proceedings;

3) Decision on granting or rejecting the motion on application of a compulsory rearing measure in relation to a minor;

4) Decision on termination of criminal prosecution against a minor and application of a compulsory rearing measure in relation to a minor.

3. Cassation review shall be applied when the following acts rendered by the Court of Appeal that have not entered into legal force are appealed:

1) Judgment;

2) Other conclusive judicial acts rendered in a result of the appellate review;

3) Judicial act rendered by the Court of Appeal in a result of extraordinary review.

4. Special review in the Court of Appeal shall be applied when a judicial act of the First Instance Court envisaged under Article 389 of this Code, that has not entered into legal force, is appealed.

5. Special review in the Court of Cassation shall be applied when a Judicial Act of the Court of Appeal envisaged under Article 394 of this Code is appealed.

6. Extraordinary review shall be applied when a Judicial Act envisaged by Paragraph 2 of Article 401 of this Code, that has entered into legal force, is appealed on the ground of a fundamental violation, a new circumstance, or a newly emerged circumstance.

Article 353. Right to Submit an Appeal for Judicial Review

1. The following persons shall be entitled to bring an appeal for judicial review:

1) A private participant in the proceedings,

2) A person who is not a participant in the proceedings, if the judicial act directly concerns his legitimate interests;

3) The Prosecutor.

2. The appeal for judicial review may be brought by or to benefit of the persons indicated in Clauses 1 and 2 of Paragraph 1 of this Article only in relation to a part of the judicial act that concerns their private interests.

3. The Prosecutor shall be entitled to bring an appeal for judicial review only in relation of public interest.

4. The General Prosecutor and its Deputies shall be entitled to bring an appeal for review to the Court of Cassation.

Article 354. Grounds for an Appeal for Judicial Review

1. The following shall be the grounds for an appeal for judicial review:

1) A judicial error: a violation of an international treaty or substantive law or an essential violation of the procedural law which could affect the outcome of the proceedings;

2) The existence of any factual or legal circumstance which can affect the legitimacy of the judicial act.

Article 355. Appeal for Judicial Review

1. An appeal for judicial review must contain:

1) The name of the Court to which the appeal is addressed;

2) Data of the person who brought the appeal, stating his status and place of residence or location;

3) The judicial act appealed and the name of the Court that rendered it;

4) Indication on whether the judicial act is being appealed fully or in certain part;

5) The ground for the appeal, the facts confirming it, the claim, as well as the arguments substantiating them;

6) The list of the materials attached to the appeal;

7) The name, surname and the signature of the person submitting the appeal.

2. Attached to the appeal shall be the document which certifies the fact of sending the copy of the appeal to the Court that rendered the appealed judicial act.

3. In case of the judicial review implying the existence of a strict time frame for bringing the appeal, an additional appeal for judicial review may be brought prior to the end of the time frame for the appeal, which shall contain:

1) Data indicated in Clauses 1 to 3, 6 and 7 of Paragraph 1 of this Article;

2) The year, month, and day of submission of the original appeal;

3) The additional ground for the appeal, the additional facts confirming the ground of the appeal, and the additional, including the new, arguments substantiating them.

4. The grounds for an appeal for judicial review and the facts confirming them shall be submitted only in the appeal and may not be modified or supplemented during the court proceedings.

Article 356. Procedure for Submitting an Appeal for Judicial Review and the Consequences of Submitting an Appeal

1. Appeal for the judicial review shall be submitted to the respective higher Court, and the copy of it - to the Court that rendered the judicial act, for complying with the requirements set under Paragraph 3 of this Article.

2. Appeal brought against the judicial act that has not entered into legal force shall suspend its entry into legal force.

3. Upon expiration of the time period set by this Code for bringing an appeal for judicial review, the Court that rendered the judicial act, promptly, but no later than on the 5th day, shall send the copy of the appeal for judicial review to the participants of the court proceedings, clarifying the right to submit a response to the appeal, and the procedure and

the time frame for such submission, and shall send the criminal case file or the materials of the proceedings to the respective higher Court.

4. In case of missing the time frame set by this Code for bringing an appeal for judicial review, the person submitting the appeal shall be entitled to attach to the appeal a motion on restoration of the missed time frame.

5. The missed time frame shall be restored if due to the reasons specified in the motion the submission of a proper appeal was practically impossible. Upon the decision on restoration of the missed time frame, the enforcement of the judicial act may be suspended.

Article 357. Response to the Appeal for Judicial Review

1. Response to the appeal for judicial review shall be submitted to the respective higher Court within the time frame set by this Code.

2. Response to the appeal for judicial review must contain:

1) The name of the Court to which the appeal is addressed;

2) Data of the person who brought the appeal, stating his status and place of residence or location;

3) The judicial act appealed and the name of the Court that rendered it, as well as data of the person who brought the appeal, with indication of his status;

4) Position on the ground for the appeal, the facts confirming it, and the claim, and the arguments substantiating such position;

5) The list of the materials attached to the response;

6) The name, surname and the signature of the person submitting the response.

3. The respective higher Court shall send the response to the appeal for judicial review, to the participants of the court proceedings.

Article 358. Withdrawal of the Appeal for Judicial Review and the Consequences of such Withdrawal

1. The person who brought the appeal or the person for the protection of whose interests the appeal was brought shall be entitled, by submitting a motion to the respective higher Court, to withdraw the appeal or refuse from a part thereof prior to the reporting by

the Presiding Judge or any of the Judges in a Court session, and in case of judicial review conducted under written procedure as envisaged by this Code, within the time set by the Court in the decision to admit the appeal to the proceedings. An appeal brought by the Prosecutor may be withdrawn also by the Superior Prosecutor.

2. In case of granting the motion, the appeal in question or a part thereof shall not be subject to examination. If no other appeals have been brought against the judicial act in question, then, the Court, in case of granting the motion, shall render a decision on termination of the respective court proceedings. The appealed judicial act shall enter into force from the moment of adoption of the decision.

3. Copy of the decision on termination of the respective court proceedings shall be sent to all the participants in the proceedings within a 3-day time period.

4. In case of cassation, the motion to withdraw an appeal may be not granted, if examination of the appeal is of fundamental significance for ensuring the uniform application of the law or other normative legal act or for eliminating the fundamental violations of human rights and freedoms.

Article 359. Scope of the Judicial Review

1. The appellate and cassation review shall be conducted within the scope of the ground indicated in the appeal and the facts substantiating such ground.

2. The higher Court shall be empowered to exceed, to the benefit of the Accused, the scope of the appellate or cassation appeal, if:

1) After publicizing the judicial act of the lower Court, a circumstance precluding criminal prosecution has been discovered;

2) It has been discovered that a wrong legal assessment was given to the act of the Accused;

3) Circumstances prescribed under Paragraph 1 of Article 376 of this Code have been discovered;

4) It has been discovered that a type or severity of punishment not prescribed by the law was imposed on the Accused for the crime attributed to him or the imposed punishment was wrongly calculated;

5) The ground for reversing or modifying the appealed judicial act obviously concerns the Accused who has not brought an appeal against the judicial act.

3. The special review shall be conducted within the scope of the ground indicated in the appeal and the facts substantiating such ground.

4. When rendering a judicial act under the special review procedure, the higher Court shall base itself only on the evidence and the materials examined and, on the assertions made by the participants of the proceedings in the lower court.

Article 360. Court Hearings Based on the Appeal for Judicial Review

1. After opening the court session, the Presiding Judge shall announce 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 Secretary of the court session shall make a report about the participants in the proceedings who are in attendance of the court session. The failure of the participants to appear shall not be an obstacle for conducting the court hearings based on an appeal for judicial review.

2. Thereafter, the Presiding Judge or one of the Judges shall make a report which will state the course of the proceedings, the essential facts, the ground for the appeal and the facts confirming it, the claim of the appeal, as well as the due response to the appeal.

3. The participants in the proceedings attending the court session may be asked questions first by Judges and then upon the permission of the Court, by other participants in the proceedings. If several participants have expressed a desire to ask questions, then the sequence order of asking questions shall be determined by the Court.

4. After providing an opportunity to present questions, the Court shall retire for rendering a decision.

5. Paragraphs 3 and 4 of this Article shall not apply to appellate review.

Article 361. Rendering of a Conclusive Judicial Act by a Collegial Composition of the Bench Based on the Appeal for Judicial Review

1. When rendering a conclusive judicial act by a collegial composition of the bench based on an appeal for judicial review, only the Judges who are members of the

judicial bench in the proceedings in question may be present in the 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 resolution by the Court in the sequence order envisaged by this Code. The first proposal to be voted on shall be the one that is the most favourable for the appellant.

3. Each of the Judges shall provide an affirmative or negative answer to each of the questions. The Judges may not abstain from voting. The Presiding Judge shall be the last one to vote. The questions shall be resolved by a simple majority vote. In case of a tie of votes, the decision that is the most favourable for the Accused shall be deemed adopted.

4. Each page of 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 separate dissenting opinion in writing.

5. A Judge who disagrees with the opinion of the majority regarding the reasoning part of the judicial act shall be empowered to state a separate concurring opinion in writing.

6. Judge who disagrees with the opinion of majority shall sign and seal the separate opinion, and it shall be attached to the criminal case file. During the publicizing of the judicial act in a court session, an announcement shall be made about the presence of a separate opinion, but the separate opinion shall not be publicized. The separate opinion shall be provided to the participants in the given proceedings.

Article 362. Grounds for Reversing or Modifying the Appealed Judicial Act

1. As a result of judicial review, the appealed judicial act shall be reversed or modified 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 an essential violation of the criminal procedure law;

4) There is a factual or legal circumstance that renders the appealed judicial act unlawful.

2. Incorrect application of an international treaty shall be the application of an international treaty of the Republic of Armenia, which was not subject to application, or the non-application of a treaty that was subject to application, or the wrong interpretation of a treaty.

3. Incorrect application of the substantive law shall be the application of any Article, Paragraph, or Clause of the criminal law or other substantive law, which was not subject to application, or the non-application of an Article, Paragraph or Clause of the substantive law that was subject to application, or the wrong interpretation of the substantive law.

4. An essential violation of the criminal procedure law shall be any violation of any of the principles of the criminal proceedings during the court proceedings.

5. A factual or legal circumstance that renders the appealed judicial act unlawful shall be a fact or a legal act that has entered into legal force or an expressed legal position, which remained unknown to the Court and the parties when the judicial act was being rendered or which emerged after publicizing of the judicial act.

6. The Court of Appeal shall be empowered to reverse or modify to the detriment of the Accused the acquitting judgment, or to reverse or modify to the detriment of the Accused the guilty judgment only in cases when the appeal containing such grounds or claims was brought by the Prosecutor, the Victim and the Victim's representative.

7. The acquitting judgment and the decision on termination of the criminal prosecution rendered on rehabilitating grounds may not be reversed on the grounds of an essential violation of the criminal procedure law, if the innocence of the Accused does not raise any doubts.

8. Paragraphs 1 to 5 of this Article shall not apply to extraordinary review.

Article 363. Content of the Judicial Act Rendered in a Result of Judicial Review

1. The judicial act rendered in a result of judicial review shall indicate:

1) The sequential number of the criminal proceedings or 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) or legal name (names) of the person (persons) that brought the appeal;

5) The name of the lower 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 claim stated in the appeal;

9) The course of the proceedings;

10) The substantiations made by the Court that conducted the review;

11) The normative legal acts being followed by the Court when rendering the decision;

12) The conclusion reached in a result of examining the appeal.

2. In the judicial act rendered in a result of the judicial review, the Court shall provide a grounded legal assessment of all the arguments presented in the appeal for judicial review, except for the arguments the groundlessness of which cannot raise any doubts for an impartial observer.

3. The conclusive part of the judicial act rendered in a result of the judicial review shall be publicized in the Court session, if the judicial review has been conducted under oral procedure. The whole judicial act shall be sent to the participants in the proceedings within the time period set by the law.

CHAPTER 46. APPELLATE REVIEW

Article 364. Time Periods and the Procedure for Submitting an Appellate Complaint and a Response to it

1. The appellate complaint shall be brought within a 1-month period upon the day of the receipt of the judicial act subject to appellate review.

2. The response to the appellate complaint shall be submitted within a 15-day period upon the day of the receipt of the appeal.

Article 365. Motion to Examine Evidence when Submiting an Appeallate Complaint

1. Participants in the proceedings shall be entitled, with a view to substantiate the arguments raised in their appellate complaint or in connection with the appellate complaint submitted by the other party, to submit new evidence to the Court, to submit a motion for having a person indicated by them invited to the Court for giving testimony, to order an expert examination, to request evidence that is not accessible for them, if they substantiate that they objectively had no possibility of or there was no objective necessity for submitting such evidence, having such person invited, or requesting an expert examination to be ordered at the First Instance Court, or if they substantiate that such a motion had been submitted and had been groundlessly rejected by the First Instance Court.

Article 366. Decisions Rendered by the Court in Relation to an Appellate Complaint

1. By a decision of the Court of Appeal, the appeal may be returned, indicating the respective deficiencies and providing a time period of 5 to 10 days, if the appeal does not correspond to the requirements set under Paragraphs 1 or 2 of Article 355 of this Code.

2. By a decision of the Court of Appeal the appeal shall be left without examination if:

1) The appellate complaint has not been brought into correspondence with the requirements set under Paragraphs 1 or 2 of Article 355 of this Code within the time frame set by the Court of Appeal;

2) The appellate complaint has been brought by a person who was not entitled to bring an appeal;

3) The appellate complaint is overdue and, in case of submission of a motion for recovering the missed time period for bringing an appeal, it has been rejected;

4) The appellate complaint was brought against a judicial act that is not subject to appellate review.

3. If the grounds prescribed under Paragraphs 1 and 2 of this Article are absent, the Court of Appeal shall decide to accept the appellate complaint into proceedings.

4. In cases prescribed under Paragraphs 1 to 3 of this Article, the Court of Appeal shall render a respective decision within 10-day period upon the receipt of the criminal case file. In case of returning the appellate complaint, the calculation of the time frames set under this Article shall begin from the day of re-submitting the appellate complaint, and in the case of not re-submitting the appellate complaint - from the day of expiration of the time frame set by the Court of Appeal.

5. A copy of the decision to return the appellate complaint shall be sent to the appellant within a 3-day period, and a copy of the decision to leave the appellate complaint without examination or to accept it into proceedings - shall be sent to all the participants in the proceedings within the same time frame.

Article 367. Scope of the Appellate Review

1. The review of a judicial act by the Court of Appeal shall be conducted based on the evidence examined by the First Instance Court and, in cases prescribed under this Code, based on the new evidence as well.

2. During the examination of the appeal under the appellate review procedure, the factual circumstances established in the First Instance Court shall be taken as a basis, except for the following cases:

1) If the appellate complaint challenges any factual circumstance and the Court of Appeal reaches the conclusion that the First Instance Court committed an obvious error when reaching a conclusion in relation to such factual circumstance;

2) The appellate complaint challenges any factual circumstance and the Court of Appeal, based on the new evidence, reaches the conclusion that the conclusion of the First Instance Court in relation such factual circumstance is ill-grounded;

3) The Court of Appeal reaches the conclusion that a factual circumstance precluding criminal prosecution is present.

3. In the cases envisaged under Paragraph 2 of this Article, the Court of Appeal shall be empowered to find as established a new factual circumstance or not find as established a factual circumstance established by the lower Court, if such a conclusion can be reached on the basis of the evidence examined by the First Instance Court or based on the new evidence.

4. If the First Instance Court failed to reach, based on the examined evidence, a conclusion in its judicial act in relation to any factual circumstance, despite its obligation to do so, then the Court of Appeal may find as established a new factual circumstance, if such a conclusion can be reached on the basis of the evidence examined by the First Instance Court or based on the new evidence.

5. When rendering a judicial act, the Court of Appeal shall be empowered to rely, for the purpose of substantiating its judicial act, on the evidence not examined in the Court of Appeal, but examined in a session of the First Instance Court.

Article 368. Scheduling of a Trial

1. After its receipt in the Court of Appeal, the criminal case file shall be provided to the Presiding Judge of the judicial bench, who shall present the criminal case file to 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 trial examination. Such decision shall:

1) Set the place, year, month, day and hour of the court session;

2) Set the volume of the evidence to be directly examined at the court session, in a case when examination of evidence is necessary, and the list of persons being invited to the Court for giving testimony;

3) Resolve the issue of a restraint measure;

4) Decide on holding an open or an in-camera session of the Court.

3. The first court session in the Court of Appeal shall be scheduled within 20 days upon the receipt of the criminal case file, but no later than within 2 months upon submission of the first appellate complaint.

4. The decision to schedule a trial examination shall be promptly sent to the participants in the proceedings.

Article 369. Trial Examination under the Appellate Review Procedure

1. Upon the decision of the Court the participation of the person who submitted the appellate complaint, the other participants in the proceedings, including the Prosecutor, shall be mandatory in the trial examination under the appellate review procedure.

2. After the report, the Court shall hear the explanations of the person who submitted the appellate complaint, and if the Court deems necessary, also the explanations of the opposite party, which has not appealed the judicial act.

3. If examination of evidence is necessary, it shall be performed within the volume defined by the Court in the decision on scheduling of a trial examination. Upon the motion of a party, the Court may expand such volume and examine other evidence as well, including the new evidence.

4. After completing the examination of evidence or, if the evidence has not been examined, after hearing the explanation of the parties, the Court shall ask the parties whether they submit a motion to supplement the volume of evidence subject to examination and, after resolving such motions, proceed to the closing arguments.

5. The Court shall determine the sequence order of the closing arguments. Participation of the parties in the hearings with their closing arguments shall not be mandatory.

6. After hearing the closing arguments, the Court shall retire to render a conclusive judicial act.

Article 370. Rendering of a Conclusive Judicial Act

1. The Court of Appeal, in a result of examination of the appellate complaint, shall render a conclusive judicial act, which shall:

1) Confirm or supplement the judicial act of the First Instance Court;

2) Fully or partially replace the judicial act of the First Instance Court;

3) Fully or partially revoke the judicial act of the First Instance Court.

2. The Court of Appeal shall render a conclusive judicial act under the general rules defined by this Code, taking into account the requirements prescribed by this Article.

3. The Court of Appeal shall resolve the following issues in the below presented order of sequence:

1) Whether the appellate complaint (each of the appellate complaints) is grounded;

2) Whether any of the circumstances envisaged by Paragraph 2 of Article 359 of this Code has been discovered;

3) Whether a response given by the First Instance Court to any of the questions envisaged by Article 348 of this Code needs to be changed;

4) Whether the appealed judicial act shall be reversed or modified;

5) If the appealed judicial act is to be reversed, then whether it shall be reversed fully or in a certain part;

6) If the appealed judicial act is to be reversed fully or in a certain part, then whether a new judicial act is to be rendered or the proceedings are to be transferred to the respective First Instance Court;

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 371. Judicial Acts Rendered in a Result of Appellate Review

1. In a result of the appellate review, the Court of Appeal shall:

1) Leave the judicial act unchanged. If the Court of Appeal rejects the appellate complaint, but finds that a judicial act, in substance, that has correctly resolved the case,

has been substantiated deficiently or substantiated wrongly in a part, then it shall substantiate the judicial act that has been left unchanged;

2) Fully or partially reverse the judicial act. For the reversed 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;

3) Modify the judicial act of the lower court, if the factual circumstances allow rendering such an act, and it is in the interests of the effectiveness of justice.

2. When reversing a judicial act, the Court of Appeal shall be empowered to transfer the proceedings to the First Instance Court only in a case when the authorities and opportunities conferred upon it by this Code are not sufficient for ensuring the fairness of a new judicial act to be rendered by it.

Article 372. Grounds for Reversing or Modifying a Judicial Act Appealed under the Appellate Review Procedure

1. A judicial act appealed under the appellate review procedure shall be reversed or modified 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 Court of Appeal;

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 an essential violation of the criminal procedure law;

5) The punishment imposed by the judgment does not correspond to the gravity of the crime committed or to the personal character of the Accused;

6) There is a factual or legal circumstance in consideration of which the appealed judicial act has become unlawful.

Article 373. Non-correspondence of the Conclusions on the Factual Circumstances Stated in a Judgment or a Decision to the Evidence

1. Having determined that the conclusions of the First Instance Court in relation to the factual circumstances, as stated in the judicial act of the Court, do not correspond to the evidence examined in the First Instance Court or in the Court of Appeal, the Court of Appeal shall fully or partially reverse the judicial act, rendering a new judicial act or transferring the proceedings to the First Instance Court for a new trial examination, or shall modify the judicial act.

Article 374. Incorrect Application of an International Treaty

1. Having determined that an international treaty has not been applied correctly, the Court of Appeal shall reverse fully or in certain part the judicial act, rendering a new judicial act or transferring the proceedings to the First Instance Court for a new trial examination, or shall modify the judicial act.

Article 375. Incorrect Application of the Substantive Law

1. Having determined that the legal assessment in relation to the conviction of the Accused is incorrect because his act is not illegitimate or there is a circumstance precluding criminal responsibility (the Accused has been convicted instead of acquittal or termination of the criminal prosecution), the Court of Appeal shall reverse 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 of its severity, the Court of Appeal shall modify the judicial act and give the crime a legal assessment that is more favourable for the Accused.

3. Having determined that the legal assessment of the act of the Accused is incorrect because of its leniency, the Court of Appeal shall reverse the judicial act, transferring the proceedings to the First Instance Court for a new examination. If the proceedings had been previously transferred to the First Instance Court based on the same

ground, then the Court of Appeal shall be empowered to reverse 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 precluding the criminality of the act (the Accused has been acquitted or his criminal prosecution has been terminated, instead of convicted him), the Court of Appeal shall reverse the judicial act, transferring the proceedings to the First Instance Court for a new examination. If the proceedings had been previously transferred to the First Instance Court based on the same ground, then the Court of Appeal shall be empowered to reverse the judicial act and render a new judicial act.

5. Having determined that the type or the severity of the punishment imposed on the Accused for the crime attributed to him is not envisaged under the law for such crime, or the punishment imposed on him was wrongly calculated, the Court of Appeal shall modify the judicial act.

6. Having determined that any other provision of the substantive law, including in the terms of resolving the property claim, has not been applied correctly, the Court of Appeal shall reverse fully or in certain part the judicial act, rendering a new judicial act, transferring the proceedings to the First Instance Court for a new court examination, or shall modify the judicial act.

Article 376. Essential Violation of the Criminal Procedure Law

1. The judicial act shall be subject to reversal unconditionally, if:

1) Despite the presence of grounds for termination of the criminal proceedings or grounds for termination of criminal prosecution, the First Instance Court failed to terminate the proceedings or the prosecution;

2) The guilty judgment was rendered on the basis of confession testimony not substantiated by the sufficient totality of evidence;

3) The judgment was rendered by an illegitimate composition of the Court bench;

4) The court proceedings were unlawfully conducted in the absence of the Accused;

5) The court proceedings were conducted in the absence of a Defence Counsel, although his participation was mandatory in accordance with the law;

6) The right of the Accused to use his mother tongue and to the services of an interpreter was violated in the Court;

7) The Accused, who performed his defence personally, was not given an opportunity to make a closing argument;

8) The protocol of the court session is missing from the criminal case file;

9) The appealed judicial act lacks a reasoning part;

10) The court jurisdiction rules were violated;

11) The Court gave the factual circumstances (act) attributed to the Accused a differing legal assessment, without having subjected the issue to a discussion for the parties under a due process of law;

12) In the proceedings transferred by a higher Court, the necessary procedural actions within the scope defined by such Court have not been performed.

2. Having determined that the First Instance Court committed a violation envisaged by Clause 1 of Paragraph 1 of this Article, the Court of Appeal shall reverse the judgment and terminate the proceedings or the criminal prosecution.

3. Having determined that the First Instance Court committed a violation envisaged by Clauses 2 to 12 of Paragraph 1 of this Article, the Court of Appeal shall reverse the judgment and render a new appealed judicial act or transfer the proceedings to the First Instance Court for a new examination.

4. Having determined that the First Instance Court has committed any other essential violation of the criminal procedure law, the Court of Appeal shall modify the appealed judicial act of the First Instance Court or reverse it, transferring the proceedings to the First Instance Court for a new examination.

Article 377. Unfairness of the Imposed Punishment

1. Having determined that the First Instance Court, when imposing the punishment or resolving the issue of serving it, failed to take into consideration a circumstance aggravating or mitigating the punishment or characterizing the dangerousness of the crime or the personal character of the Accused, resulting in the imposition of an unfair, *i.e.* obviously too severe or obviously too lenient punishment, the Court of Appeal shall modify the judicial act of the First Instance Court - mitigating or aggravating the punishment, or otherwise resolving the issue of serving the punishment, complying with the general principles of sentencing.

Article 378. Presence of a New Factual or Legal Circumstance

1. Having determined that, after rendering the appealed judicial act, such a factual or legal circumstance has emerged or has been discovered, in consideration of which the appealed judicial act becomes unlawful, the Court of Appeal shall reverse fully or in a certain part the judicial act and render a new judicial act, or transfer the proceedings to the First Instance Court for a new examination, or shall modify the judicial act.

Article 379. Proceedings Following the Delivery of a Conclusive Judicial Act Rendered in a Result of Appellate Review

1. The judicial act rendered in a result of appellate review shall enter into legal force within a 1-month period upon its delivery.

2. No later than within 5 days upon its publicizing, the judicial act rendered in a result of appellate review shall be sent to the participants in the proceedings in question.

3. In case of reversing the appealed judicial act in a result of appellate review and transferring the proceedings to the First Instance Court, the proceedings shall be conducted under the general procedure, within the scope defined by the Court of Appeal.

CHAPTER 47. CASSATION REVIEW

Article 380. Time Periods and Procedure for Submitting an Appeal on Points of Law and a Response to it

1. An appeal on points of law may be submitted within a 1-month period upon the receipt of the judicial act subject to the cassation appeal.

2. The response to the appeal on points of law shall be submitted within a 1-month period upon the day of the receipt of the appeal.

Article 381. Conditions for Admitting an Appeal on Points of Law into Proceedings

1. The Court of Cassation shall admit an appeal on points of law into proceedings, if it reaches the conclusion that:

1) The Court of Appeal has committed a *prima-facie* judicial error, or there is a *prima-facie* factual or legal circumstance that renders the appealed judicial act unlawful, and, at the same time, the decision of the Court of Cassation in relation to the issue raised in the appeal on points of law can have an essential significance for the uniform application of the law; or

2) The rendered judicial act may undermine the very essence of justice in a result of commission of a *prima facie* serious judicial error or by virtue of the emergence of *prima facie* serious factual or legal circumstance.

2. For the purposes of this Article, the decision of the Court of Cassation in relation to the issue raised in the appeal on points of law can have an essential significance for the uniform application of the law if:

1) At least in two judicial acts rendered in different proceedings by the lower courts the same normative legal act has been applied differently or has not been applied due to the difference of legal perceptions;

2) The interpretation (substantiation) given to the concrete legal norm in the appealed judicial act contradicts to the interpretation (substantiation) given to that very legal norm in a Decision of the European Court of Human Rights;

3) The interpretation (substantiation) given to the concrete legal norm in the appealed judicial act contradicts to the constitutional-legal meaning of the given norm revealed in the decision of the Constitutional Court;

4) The interpretation (substantiation) given to the concrete norm in the appealed judicial act contradicts to the interpretation (substantiation) given to that very norm in another Decision of the Court of Cassation;

5) The Court of Cassation finds that in connection with the appealed judicial act there is an issue of development of the law.

3. For the purposes of this Article, the following judicial errors 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 volume of the punishment not prescribed by the law was imposed on the Accused for the crime attributed to him, or the punishment imposed on him was wrongly calculated;

4) A violation of the criminal procedure law envisaged by Paragraph 1 of Article 376 of this Code has been committed.

4. For the purposes of this Article, the following factual or legal circumstances shall be deemed serious:

1) The 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 expired;

3) The Accused has died;

4) In case of a presence of the condition specified under Paragraphs 3 or 4 of Article 375 of this Code, the Court of Appeal has rendered a new judicial act;

5) Any other factual circumstance in connection to which the Court of Cassation finds that there is a need to conduct the review of the judicial act.

Article 382. Appeal on Points of Law

1. In addition to what is envisaged by Paragraph 1 of Article 355 of this Code, an appeal on points of law shall also contain the conditions for admitting an appeal into proceedings, as envisaged by Article 381 of this Code, and the arguments substantiating them.

2. For the sake of uniform application of the law or other normative legal act, the essential significance of the possible decision of the Court of Cassation in relation to the issue raised in the appeal must be substantiated in at least one of the following ways:

1) In case of the Clause 1 of Paragraph 2 of Article 381 of this Code - by attaching the relevant judicial act to the appeal, by citing their contradicting parts and making a comparative analysis in relation to different applications of the same normative legal act by the appealed judicial act and by a judicial act of a lower court rendered in another case with similar factual circumstances;

2) In case of the Clause 2 of Paragraph 2 of Article 381 of this Code – by citing the contradicting parts of the relevant judicial act and making a comparative analysis in relation to the contradiction between the appealed judicial act and the judicial act of the European Court of Human Rights rendered in a case with certain factual circumstances;

3) In case of the Clause 3 of Paragraph 2 of Article 381 of this Code – by citing the part of a judicial act of a lower Court, that contradicts to the decision of the Constitutional Court, and making a comparative analysis in relation to the contradiction between the appealed judicial act and the conclusive part of the decision of the Constitutional Court of the Republic of Armenia;

4) In case of the Clause 4 of Paragraph 2 of Article 381 of this Code - by citing the contradicting parts of the respective judicial acts and making a comparative analysis in relation to the contradiction of the appealed judicial act and the judicial act of the Court of Cassation, rendered in a case with similar factual circumstances;

5) In case of Clause 5 of Paragraph 2 of Article 381 of this Code - by arguing that there is an issue of development of the law in connection with the appealed judicial act.

3. The appeal on points of law shall be submitted on the same ground on which the judicial act of the First Instance Court was appealed against under the appellate review

procedure, except for the case when the Court of Appeal has rendered a judicial act that is essentially different from that of the First Instance Court.

Article 383. Preliminary Proceedings on an Appeal of Points of Law

1. An appeal on points of law shall be returned, with indicating the deficiencies and providing from 10 days to 1-month time, if the appeal does not correspond to the requirements set under Paragraphs 1 and 2 of Article 355 and Article 382 of this Code.

2. The appeal on points of law shall be left without examination if:

1) Within the time period set by the Court of Cassation, the appeal on points of law has not been brought into correspondence with the requirements set under Paragraphs 1 and 2 of 355 and Article 382 of this Code;

2) The appeal on points of law has been brought by a person who was not entitled to bring the appeal;

3) The appeal is overdue and, in case of submission of a motion for recovering the missed time period for bringing an appeal, it has been rejected;

4) The appeal on points of law was brought against a judicial act that is not subject to the appeal on points of law.

3. Admission of the appeal on points of law into proceedings shall be rejected, if the Court of Cassation reaches the conclusion that the substantiation of conditions for admitting into proceedings is insufficient. If the appeal on points of law refers to any of the conditions for admitting it into proceedings set under Clauses 1 to 4 of Paragraph 2 of Article 381, then the Court of Cassation in its decision on rejecting the admission of the appeal on points of law into proceedings, shall substantiate the absence of the condition referred to.

4. The appeal on points of law shall be admitted into proceedings, if it corresponds to the requirements set under Paragraphs 1 and 2 of 355 and Article 382 of this Code and, at the same time, if the Court does not reach the conclusion that the substantiation of the conditions for admitting into proceedings is insufficient. The decision of admitting the complaint to the proceedings shall indicate whether it will be conducting

under written procedure or, as envisaged by paragraph 5 of Article 264, under oral procedure.

5. In cases prescribed by Paragraphs 1 and 2 of this Article, the Court of Cassation shall render the respective decision within a 1-month period upon the receipt of the appeal. In cases prescribed under Paragraphs 3 and 4 of this Article, the Court of Cassation shall render the respective decision within a 3-month period upon the receipt of the appeal. In cases when the appeal on the points of law has been returned, the calculation of the time frames envisaged under this paragraph shall start from the day when the appeal on the points of law has been re-submitted, or, if it has not been re-submitted, then - from the day of expiration of the time frame specified by the Court of Cassation.

6. A copy of the decision on returning the appeal on the points of law shall be sent to the person who brought the appeal within a 7-day period of time. A copy of a decision to leave the appeal on the points of law without examination, the decision to admit the appeal into proceedings or to reject its admission into proceedings shall be sent to all the participants in the proceedings within the same time frame.

Article 384. Trial Examination Under the Cassation Review Procedure

1. The Court of Cassation shall conduct the examination of the complaint within a reasonable time.

2. The person who brought the appeal and the participants in the proceedings shall be notified of the place and time of the court session in case the court session is conducted under oral procedure.

Article 385. Rendering of a Judicial Act

1. The Court of Cassation, in a result of examination of the appeal, shall render a decision which shall:

1) Confirm or supplement the judicial acts of the lower courts;

2) Fully or partially replace the judicial acts of the lower courts;

3) Fully or partially revokes the judicial acts of the lower courts.

2. The Court of Cassation shall render its decision under the general rules prescribed by this Code, taking into account the requirements prescribed by this Article.

3. The Court of Cassation shall resolve the following issues in the below presented order of sequence:

1) Whether the appeal on the points of law (or each of the appeals on the points of law) is grounded;

2) Whether any of the circumstances envisaged by Paragraph 2 of Article 359 of this Code has been discovered;

3) Whether the appealed judicial act shall be reversed or modified;

4) If the appealed judicial act is to be reversed, then whether it shall be reversed fully or in a certain part;

5) If the appealed judicial act is to be reversed fully or in a certain part, then whether the proceedings are to be transferred to the Court of Appeal or to a respective First Instance Court, and what shall be the scope of the new proceedings to be conducted.

Article 386. Judicial Acts rendered in a Result of Cassation Review

1. In a result of cassation review the Court of Cassation shall:

1) Leave the judicial act unchanged. If the Court of Cassation rejects the appeal on the points of law, but finds that the judicial act, that, in substance, has correctly resolved the case, has been substantiated deficiently or substantiated wrongly in a part, then it shall substantiate the judicial act that has been left unchanged;

2) Fully or partially reverse the judicial act. For the reserved part, the proceedings shall be sent to the respective lower Court for new examination, defining the scope of such new examination. The judicial act shall enter into legal force in its non-reversed part;

3) Modify the judicial act of the respective lower Court, if the factual circumstances confirmed by the lower Court allow to render such an act, and it is in the interests of the effectiveness of justice;

4) Reverse fully or in a certain part the judicial act, terminating the criminal prosecution or terminating the criminal proceedings;

5) If the Court of Appeal reversed or modified the judicial act, then the Court of Cassation shall reverse fully or in certain part the judicial act of the Court of Appeal and give legal force to the judicial act of the First Instance Court. In this case, the Court of Cassation shall provide additional reasoning to the judicial act of the First Instance Court, if it has been reasoned deficiently or wrongly in part.

Article 387. Grounds of Reversing or Changing a Judicial Act Appealed under a Cassation Procedure

1. A Judicial Act appealed under the cassation review procedure shall be reversed or modified 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 an essential violation of the criminal procedure law;

4) The punishment imposed does not correspond to the gravity of the crime committed or the personal character of the Accused;

5) There is a factual or legal circumstance in consideration of which the appealed judicial act has become unlawful.

2. Having determined that an international treaty has not been applied correctly, the Court of Cassation shall fully or in certain part reverse the judicial act of the lower Court, transferring the proceedings to the respective lower Court for a new examination, or giving legal force to the judicial act of the First Instance Court, or shall modify the judicial act.

3. Having determined that the legal assessment of the act of the Accused is incorrect, or the type or severity of the punishment imposed on the Accused for the crime attributed to him is not envisaged under the law for such crime, or the punishment imposed on him was wrongly calculated, the Court of Cassation shall reverse the judicial act of the lower Court, transferring the proceedings to the respective lower Court for a new examination, or giving legal force to the judicial act of the First Instance Court, or shall modify the judicial act.

4. Having determined that the substantive law has been otherwise incorrectly applied, including in terms of resolving the property claim, the Court of Cassation shall reverse fully or in a certain part the judicial act of the lower Court, transferring the proceedings to the respective lower Court for a new examination, or giving legal force to the judicial act of the lower Court, or shall modify the judicial act.

5. Having determined that a violation envisaged by Clause 1 of Paragraph 1 of Article 376 of this Code has been committed, the Court of Cassation shall reverse the judicial act of the Court of Appeal, terminating the proceedings or terminating the criminal prosecution.

6. Having determined that a violation envisaged by Clauses 2 to 11 of Paragraph 1 of Article 376 of this Code has been committed, the Court of Cassation shall reverse the judicial act of the lower Court, transferring the proceedings to the respective lower Court for a new examination.

7. Having determined that any other essential violation of the criminal procedure law has been committed, the Court of Cassation shall reverse fully or partially the judicial act of the lower Court, transferring the proceedings to the respective lower Court for a new examination or giving legal force to the judicial act of the First Instance Court, or shall modify the judicial act.

8. Having determined that a circumstance aggravating or mitigating the punishment or characterizing the dangerousness of the crime or the personal character of the Accused, have not been taken into consideration when imposing the punishment or resolving the issue of serving it, resulting in the imposition of an unfair, i.e. obviously too severe or obviously too lenient punishment, the Court of Cassation shall modify the judicial act of the lower Court - mitigating or aggravating the punishment, or otherwise resolving the issue of serving the punishment, complying with the general principles of sentencing.

9. Having determined that there is a factual or legal circumstance, including a circumstance related to the development of the law, in consideration of which the appealed judicial act has become unlawful, the Court of Cassation shall reverse, fully or in a certain part, the judicial act of the lower court, transferring the proceedings to the respective lower

Court for a new examination or giving legal force to the judicial act of the First Instance Court, or shall modify the judicial act.

Article 388. Proceedings Following the Publication of a Conclusive Cassation Decision

1. The decision of the Court of Cassation shall enter into force from the moment of its publicizing.

2. Within a reasonable time period following the day of the publicizing of the decision, it shall be sent to the person who brought the appeal and to the participants in the proceedings in question.

3. In case when under the cassation review procedure, the appealed judicial act has been reversed and the proceedings have been transferred to a lower Court, the proceedings shall be conducted under the general procedure, within the scope defined by the Court of Cassation.

CHAPTER 48. SPECIAL REVIEW

Article 389. Scope of the Judicial Acts Subject to Special Review in the Court of Appeal

1. The following judicial acts of the First Instance Court shall be subject to special review in the Court of Appeal:

1) A judicial act on terminating the criminal prosecution without termination of the proceedings;

2) Refusing the motion on applying detention as a restraint measure, prolongation of the term of detention, termination of detention or application of an alternative restraint measure instead of detention as well as termination of detention or application of an alternative restraint measure instead of detention;

3) A judicial act on rejecting a motion on institution of any of the proceedings of judicial safeguards prescribed under Articles 285, 292, 295 or 302 of this Code, as well as on rejecting the motion on deposition of testimony;

4) A judicial act on granting or rejecting any of the motions prescribed under Articles 284, 291 and 294 of this Code, as well as on granting or rejecting the appeal challenging a pre-trial act;

5) A judicial act on rejecting the institution of the proceedings on placement in medical institution for performance of an expert examination or application of medical supervision;

6) A judicial act on granting or rejecting a motion on placement in a medical institution for performance of an expert examination or application of medical supervision;

7) A judicial act on imposing a judicial fine;

8) A judicial act on removal or exemption from participation in the proceedings;

9) A judicial act on compulsory bringing before the Court;

10) A judicial act on turning the bail to the state income;

11) A judicial act on rejecting a conduct of the cooperation proceedings under a special procedure and on continuing the preliminary judicial hearings in the general procedure;

12) A judicial act on rejecting the performance of remote proceedings and continuing the preliminary hearings under general procedure;

13) Other judicial acts, in the cases envisaged by this Code.

Article 390. Time Periods and Procedure for Bringing an Appeal for a Special Review to the Court of Appeal and for Submitting the Response to it

1. The appeal for special review in the Court of Appeal shall be brought within a 10-day period upon the day of the receipt of the respective judicial act.

2. The response to the appeal for special review in the Court of Appeal shall be submitted within a 7-day period upon the day of the receipt of the appeal.

Article 391. Decisions Rendered by the Court in Relation to a Special Appeal for Review in the Court of Appeal

1. An appeal for special review shall be returned, with indicating the deficiencies and providing from 3 to 6 days' time, if the appeal does not correspond to the requirements set under Paragraphs 1 or 2 of Article 355 of this Code.

2. The appeal for special review shall be left without examination if:

1) Within the time period set by the Court of Appeal, the appeal has not been brought into correspondence with the requirements set under Paragraphs 1 and 2 of Article 355 of this Code;

2) The appeal has been brought by a person who was not entitled to bring the appeal;

3) The appeal is overdue and, in case of submission of a motion for recovering the missed time period for bringing an appeal, it has been rejected;

4) The appeal was brought against a judicial act that is not subject to special review in the Court of Appeal.

3. In case of the absence of the grounds specified in Paragraph 1 and 2 of this Article, the appeal shall be admitted into proceedings, by indicating in the decision whether it will be conducting under written procedure or, as envisaged by paragraph 5 of Article 264, under oral procedure. In case of conducting the proceedings under oral procedure, the decision shall indicate the place, year, month, day and hour of the court session.

4. The Court of Appeal shall render a decision in relation to the appeal for special review within a 3-day period upon the receipt of the materials of the proceedings. In a case when the appellate complaint has been returned, the calculation of the time frames envisaged under this paragraph starts from the day when the appellate complaint has been re-submitted, or, if it has not been re-submitted, from the day of expiration of the time frame specified by the Court of Appeal.

5. A copy of the decision to return the appeal shall be sent to the person who brought the appeal within 1 day, and the copy of the decision to leave the appeal without examination or to admit the appeal into proceedings, within the same time frame, shall be

sent to all the participants in the proceedings, as well as to the First Instance Court that rendered the appealed judicial act.

Article 392. Time Periods for a Special Review in the Court of Appeal

1. The special review proceedings in the Court of Appeal shall be conducted and completed within the following time frames upon the admission of the appeal into proceedings;

1) within 5 days - in cases of the judicial acts envisaged by Clauses 3, 5 and 8 of Paragraph 1 of Article 389 of this Code;

2) within 10 days – in cases of the judicial acts envisaged under Clauses 1, 2, 4, 6, 11 and 12 of Paragraph 1 of Article 389 of this Code;

3) within 20 days - in cases of other judicial acts.

Article 393. Judicial Acts Rendered in a Result of Special Review in the Court of Appeal and the Proceedings Following Their Delivery

1. In a result of special review in the Court of Appeal, the Court of Appeal shall:

1) Leave the judicial act unchanged;

2) Modify the judicial act of the lower Court, if the factual circumstances allow rendering such an act;

3) Reverse fully or in certain part the judicial act, rendering a judicial act that substitutes the appealed act in the reversed part.

2. The judicial act rendered in a result of a special review in the Court of Appeal shall enter into legal force from the moment of its publicizing and in case the proceedings were conducted under written procedure, on the same day it is rendered. The judicial act shall be sent to the participants in the proceedings and the respective First Instance Court no later than within 3 days upon its entering into force.

3. If the special review in the Court of Appeal is conducted when the proceedings are being conducted in the First Instance Court, then the conclusive judicial act rendered by the Court of Appeal in a result of the review shall be announced in the forthcoming session of the First Instance Court.

Article 394. Scope of the Judicial Acts Subject to Special Review in the Court of Cassation

1. The judicial acts rendered in a result of a special review in the Court of Appeal, and the following judicial acts of the Court of Appeal shall be subject to special review in the Court of Cassation:

1) A judicial act on terminating the criminal prosecution without termination of the proceedings;

2) Refusing the motion on applying detention as a restraint measure, prolongation of the term of detention, termination of detention or application of an alternative restraint measure instead of detention as well as termination of detention or application of an alternative restraint measure instead of detention;

3) A judicial act on imposing a judicial fine;

4) A judicial act on removal from the proceedings;

5) A judicial act on compulsory bringing before the Court;

6) A judicial act on turning the bail into the state income;

7) A judicial act on leaving the appellate complaint or the special review complaint conducting by the Court of Appeal without examination;

8) A judicial act on terminating the appellate proceedings or on terminating the special review proceedings in the Court of Appeal;

9) Other judicial acts, in the cases envisaged by this Code.

Article 395. Time Periods and Procedure for Bringing an Appeal for Special Review to the Court of Cassation and for Submitting the Response to it

1. The appeal for special review in the Court of Cassation shall be brought within a 15-day period upon the day of the receipt of the respective judicial act.

2. The response to the appeal for special review in the Court of Cassation shall be submitted within a 10-day period upon the day of the receipt of the appeal.

Article 396. Conditions for Admitting an Appeal for a Special Review into proceedings in the Court of Cassation

1. The Court of Cassation shall admit the appeal into proceedings if it reaches the conclusion that:

1) The Court of Appeal has committed a *prima-facie* judicial error, or there is a *prima-facie* factual or legal circumstance that renders the appealed judicial cat unlawful, and, at the same time, the decision of the Court of Cassation in relation to the issue raised in the appeal on the points of law can have an essential significance for the uniform application of the law;

2) The rendered judicial act may have undermined the very essence of justice in a result of commission of a *prima facie* essential violation of the criminal procedure law.

Article 397. Appeal for a Special Review in the Court of Cassation

1. In addition to what is envisaged by Paragraph 1 of Article 355 of this Code, the appeal for a special review in the Court of Cassation shall also contain the conditions for admitting an appeal into proceedings as envisaged by Article 396 of this Code and the arguments substantiating them.

2. The appeal on the points of law shall be submitted on the same ground on which the judicial act of the First Instance Court was appealed against under the special review procedure in the Court of Appeal, except for the case when the Court of Appeal has rendered a judicial act that is essentially different from that of the First Instance Court.

Article 398. Preliminary Proceedings on the Appeal for a Special Review in the Court of Cassation

1. An appeal for special review shall be returned, with indicating the deficiencies and providing from 5 to 10 days' time, if the appeal does not correspond to the requirements set under Paragraphs 1 or 2 of Article 355 or Article 397 of this Code.

2. The appeal on the points of law shall be left without examination if:

1) Within the time period set by the Court of Cassation, the appeal has not been brought into correspondence with the requirements set under Paragraphs 1 and 2 of Article 355 or Article 397 of this Code;

2) The appeal has been brought by a person who was not entitled to bring the appeal;

3) The appeal is overdue and, in case of submission of a motion for recovering the missed time period for bringing an appeal, it has been rejected;

4) The appeal was brought against a judicial act that is not subject to appeal under special review procedure in the Court of Cassation.

3. Admission of a appeal on the points of law into proceedings shall be rejected, if the Court of Cassation reaches the conclusion that the substantiations of the conditions for admitting into proceedings are insufficient.

4. The appeal on the points of law shall be admitted into proceedings, if it corresponds to the requirements set under Paragraphs 1 and 2 of Article 355 or Article 397 of this Code and, at the same time, the Court of Cassation does not reach the conclusion that the substantiations of the conditions for admitting into proceedings are insufficient. The decision on admitting the appeal into proceedings shall indicate whether the proceedings will be conducted under written procedure or under oral procedure, as prescribed by the Paragraph 5 of Article 264 of this Code.

5. In cases prescribed by Paragraphs 1 and 2 of this Article, the Court of Cassation shall render the respective decision within a 7-day period upon the receipt of the materials of the proceedings. In cases prescribed under Paragraphs 3 and 4 of this Article, the Court of Cassation shall render the respective decision within a 15-day period upon the receipt of the materials of the proceedings. In a case when the appeal on the points of law has been returned, the calculation of the time frames envisaged by this paragraph starts from the day when the appeal on the points of law has been re-submitted, or, if it has not been re-submitted, from the day of expiration of the time frame specified by the Court of Cassation.

6. A copy of the decision to return the appeal shall be sent to the person who brought the appeal within 3 days, and the copy of the decision to leave the appeal without

examination or to admit the appeal into proceedings or to reject admission of the appeal into proceedings, within the same time frame, shall be sent to all the participants in the proceedings, as well as to the First Instance Court that rendered the appealed judicial act.

Article 399. Time Periods for a Special Review in the Court of Cassation

1. The special review proceedings in the Court of Cassation shall be conducted and completed within the shortest possible time frame that is necessary for elimination of the alleged negative consequences of the appealed judicial act.

2. The person who brought the appeal and the relevant participants in the proceedings shall be notified of the place and time of the court session in case the proceedings will be conducted under oral procedure.

Article 400. Judicial Acts Rendered in a Result of a Special Review in the Court of Cassation and the Proceedings Following their Delivery

1. In a result of special review in the Court of Cassation, the Court of Cassation shall:

1) Leave the judicial act unchanged;

2) Modify the judicial act of the lower court, if the factual circumstances allow rendering such an act;

3) Reverse fully or in certain part the judicial act, rendering a judicial act that substitutes the appealed act in the reversed part;

2. The judicial act rendered in a result of special review in the Court of Cassation shall enter into legal force from the moment its publicizing and in case of conducting the proceedings under written procedure, from the moment of its rendering. The judicial act shall be sent to the participants in the proceedings and the respective lower Court within a reasonable time.

3. If the special review in the Court of Cassation is conducted when the proceedings are being conducted in the lower Court, then the conclusive judicial act rendered by the Court of Cassation in a result of the review shall be announced in the forthcoming session of such Court.

CHAPTER 49. EXTRAORDINARY REVIEW

Article 401. Extraordinary Review Proceedings and the Scope of Judicial Acts Subject to Extraordinary Review

1. The following shall be the extraordinary review proceedings:

1) Proceedings based on the new circumstances;

2) Proceedings based on a fundamental violation;

3) Proceedings based on the newly emerged circumstances.

2. The following shall be subject to extraordinary review:

1) The judgment and the decision of the court on termination of the proceedings or on termination of the criminal prosecution;

2) The judicial act which has entered into legal force and has been rendered within the framework of challenging pre-trial acts, which confirms the legitimacy of non-institution of the criminal prosecution or termination thereof, or the illegitimacy of renewing the criminal prosecution or illegitimacy of terminating the proceedings;

3) The decision of the Court of Appeal and Court of Cassation rendered in a result of the review of the judicial acts prescribed by Clause 1 and 2 of this Paragraph, which has entered into legal force.

Article 402. Persons Eligible to Bring an Appeal for Extraordinary Review

1. The following persons shall be entitled to bring an appeal for extraordinary review:

1) A person who was a private participant in the proceedings in question, whose legitimate interests the alleged new circumstance or the alleged fundamental violation or the alleged newly emerged circumstance is related to;

2) A person who was a private participant in the proceedings in question and is indicated in Paragraph 11 of Article 69 of the Constitutional Law on the Constitutional Court;

3) A person who was a private participant in the proceedings in question, and at the time of rendering the respective judicial act by an international court in which the

Republic of Armenia participates, was entitled to apply to the respective international court in accordance with the requirements of the international treaty;

4) The Prosecutor General of the Republic of Armenia and his Deputies.

2. Instead of a person specified in Clauses 1 to 4 of Paragraph 1 of this Article, an appeal for extraordinary review may be brought by a person empowered by him, who shall submit to the court the document confirming his authority, with bringing the appeal.

Article 403. Grounds for Bringing an Appeal for Extraordinary Review

1. The appeal based on the new circumstances may be brought on the following grounds:

1) A judicial act that has entered into legal force has confirmed that the testimony of the Witness, the Victim, or the Accused was a lie, the translation performed by the Interpreter was incorrect or the conclusion of the Expert was false, or the physical evidence, the protocols of evidentiary or other procedural actions, and extra-procedural documents have been falsified, which has resulted in rendering of an unlawful procedural act;

2) A judicial act that has entered into legal force has confirmed the criminal acts by the Judge, which he committed while examining the case in question;

3) A judicial act that has entered into legal force has confirmed such criminal acts by the public participant in the proceedings, which resulted in rendering an unlawful judicial act;

4) The Constitutional Court has found that the provision of the law applied by the Court in the proceedings in question contradicts to the Constitution and is invalid, or has found, by its interpretation that it corresponds to the Constitution but has been applied with different interpretation;

5) 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 when in the friendly settlement or unilateral declaration of the Republic of

Armenia has been recognised that the right of the person under an international treaty of the Republic of Armenia has been violated;

6) The decision of the Supreme Judicial Council by which the judge who rendered the judicial act in question has been subjected to disciplinary liability for deliberately or severe negligence committing an obvious and grave violation of the substantive or procedural law when administering justice or when exercising other powers provided by law as a judge in the given case.

2. An appeal based on a fundamental violation may be brought solely to the benefit of the Accused on the following grounds:

1) Despite the existence of an obvious circumstance precluding the criminal prosecution, a guilty judgment has been 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 guilty judgment in relation to the Accused that has entered into legal force has been rendered solely on the basis of his confession testimony;

4) The Court that rendered the judicial act that has entered into legal force has conducted the proceedings with an obviously illegitimate composition of the bench;

5) In the Court that rendered the judicial act that has entered into legal force, the proceedings were unlawfully conducted in the absence of the Accused;

6) In the Court that rendered the judicial act that has entered into legal force, the proceedings were unlawfully conducted in absence of a Defence Counsel or an Interpreter, and this fact has affected the outcome of the proceedings;

7) The criminal case file does not contain the protocol of the court session of the Court that rendered the judicial act that has entered into legal force if it is not possible to restore it;

8) The judicial act that has entered into legal force lacks a reasoning part.

3. An appeal based on the newly emerged circumstance can be brought in cases when:

1) Circumstances that remained unknown to the Court when rendering the judicial act have been established, which *per se* or together with the circumstances

established earlier prove the innocence of the Accused or the crime of lesser or higher gravity committed by the Accused as compared to the crime he has been convicted for, or prove the guilt of the Acquitted person or a person in relation to whom the criminal prosecution was terminated, as well as confirm illegitimacy of termination of the proceedings;

2) The mental health issue which the person had when committing the crime in a state of culpability and which rendered serving of the punishment impossible, has been eliminated.

Article 404. Time Periods for Bringing an Appeal for Extraordinary Review

1. The appeal for extraordinary review may be submitted within 4 months from the moment when the person entitled to bring an appeal became aware or should have become aware of the emergence or discovery of the respective circumstances.

2. In the case envisaged under Clause 6 of Paragraph 1 of Article 403 of this Code, the calculation of the 4-month period shall begin on the day of delivering the judgment or decision that have 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 terminate the proceedings or a decision to terminate the criminal prosecution shall be permitted within the statutory period of limitation for bringing to criminal liability.

4. The extraordinary review of the judicial act on the basis of the claim to establish the innocence of the convict or the fact of a commission of a lesser crime by the latter shall not be barred by any time frames.

5. The death of the convicted person shall not prohibit the performance of an extraordinary review for the purpose of reinstating the rights of the convict or other persons.

Article 405. Preliminary Proceedings Based on the Newly Emerged Circumstances

1. The report on the newly emerged circumstances envisaged by Paragraph 3 of Article 403 of this Code shall be sent to the Prosecutor by the interested or competent person.

2. In case of the *prima-facie* presence of a circumstance envisaged by Paragraph 3 of Article 403 of this Code, the Prosecutor shall render a decision on initiating preliminary proceedings in relation to the newly emerged circumstances, and shall give an instruction to the preliminary investigation body to perform an investigation in relation to such circumstances.

3. If the Prosecutor who received the report finds, in a result of examination, that the *prima-facie* grounds for the review of the judicial act are present, he shall compose a conclusion and send it to the Prosecutor General or the Deputy Prosecutor General of the Republic of Armenia, and in case of absence of the grounds for the review of the judicial act – shall terminate the proceedings by his decision. Within a 3-day period, the decision shall be sent to the interested person who submitted the report, who may appeal against it in a manner prescribed under Article 300 of this Code.

4. The Prosecutor General of the Republic of Armenia or his Deputy, considering the grounds for the review of the judicial act as present, shall submit an appeal based on the newly emerged circumstances to the respective higher court, attaching to it the conclusion and the other necessary materials.

5. In case of the absence of the grounds for the review of the judicial act, the Prosecutor General of the Republic of Armenia or his Deputy shall terminate the preliminary proceedings by a decision. The decision and the copies of the materials of the proceedings shall be sent, within a 3-day period, to the interested person who submitted the report, who shall be entitled to bring, based on these, an appeal for extraordinary review, on the ground prescribed in Paragraph 3 of Article 403 of this Code.

Article 406. Procedure for Extraordinary Appealing

1. The appeal for extraordinary review shall be submitted to the Court of Cassation, and if the appealed judicial act was rendered by the First Instance Court - to the Court of Appeal.

2. The copies of the appeal for extraordinary review and copies of the attached materials shall be duly sent to the persons that were private participants in the proceedings in question. If the appeal was brought by the person indicated in Clauses 1 to 3 of Paragraph 1 of Article 402 or by the person empowered by him, then the copies of the appeal and those of the attached materials shall be sent also to the Prosecutor General of the Republic of Armenia or his Deputy.

3. The documents certifying that the copies of the appeal and those of the attached materials have been sent to the addressees envisaged by this Article shall be attached to the appeal for extraordinary review.

Article 407. Initiation of Proceedings for Extraordinary Review

1. The proceedings for extraordinary review, based on the appeal for extraordinary review, shall be initiated under the decision of the competent court. The proceedings for extraordinary review shall be conducted within a reasonable time.

2. In case of conducting the proceedings under oral procedure, the person who has submitted the appeal, the person empowered by him, the Prosecutor of the Republic of Armenia and the private parties of the proceedings in question shall be notified about the place and time of the court session.

3. Initiation of the proceedings for extraordinary review shall be rejected by a decision if any of the following grounds are present:

1) The appeal within the time set by the competent court has not been in correspondence with requirements envisaged by Paragraphs 1 or 2 of Article 355 or by Article 406.

2) The appeal is overdue and, in case of submission of a motion for recovering the missed time period for bringing an appeal, it has been rejected;

3) The new circumstance, the newly emerged circumstance or the fundamental violation are *prima facie* absent;

4) The appeal was submitted by an improper person;

5) The appeal has been brought against such judicial act which is not subject to review.

4. The competent court shall render the decision on initiating the review proceedings or rejecting initiation thereof within a 1-month period upon the receipt of the appeal, sending such decision to the appellant and the persons indicated under Paragraph 2 of Article 406 of this Code.

5. The decision of the Court of Appeal on rejecting initiation of the proceedings for extraordinary review may be appealed by the interested person to the Court of Cassation in a procedure for special review prescribed under this Code.

Article 408. Judicial Acts Rendered in a Result of Extraordinary Review and the Proceedings Following their Delivery

1. In a result of the extraordinary review, the competent court shall fully or partially reverse the appealed judicial act transferring the proceedings to the respective lower court or terminating the criminal prosecution, and if necessary, also terminating the proceedings.

2. The Court performing extraordinary review shall be empowered not to reverse the appealed judicial act only if it substantiates, with indication of the compelling arguments, that the circumstances envisaged by Article 403 of this Code could not, in essence, affect the outcome of the proceedings.

3. The judicial act rendered in a result of extraordinary review shall enter into legal force upon its publicizing. The judicial act of the Court of Appeal may be appealed under the cassation review procedure envisaged by this Code.

4. The judicial act rendered in a result of extraordinary review shall be sent to the person who brought the appeal and to the private participants in the proceedings in question, within a reasonable time.

5. In case of reversing the appealed judicial act under the extraordinary review procedure and transferring the proceedings to a lower court, the proceedings shall be conducted under the general procedure, within the scope defined by the court that performed the extraordinary review.

PART FOUR: SEPARATE PROCEEDINGS

SECTION 12. PECULIARITIES OF THE PROCEEDINGS CONDUCTED IN RESPECT OF SPECIFIC PERSONS

CHAPTER 50. PROCEEDINGS CONCERNING A CRIME ATTRIBUTED TO A MINOR

Article 409. General Terms of the Proceedings Concerning a Crime Attributed to a Minor

1. The provisions of this Chapter shall apply in the proceedings concerning persons that have not reached the age of 18 at the time of the arrest or at the time of bringing the charges as well as concerning those persons who, in the absence of the document proving the age, announce or it is reasonably assumed that they are minors insofar the contrary has not been established in a manner prescribed by this Code.

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 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 for minimizing his exposure to unlawful influence.

4. The compulsory procedural measures and other means of influence, which are applied in relation to a minor, shall be proportionate to the factual circumstances and the gravity of the crime attributed to him, as well as to his personal character and social and psychological condition.

Article 410. Circumstances Subject to Proving in the Proceedings Related to a Crime Attributed to a Minor

1. In the proceedings related to a crime attributed to a minor, the following shall be established, in addition to the circumstances subject to proving under Article 102 of this Code:

1) The age of the minor (day, month, and year of birth);

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;

4) The reasons for committing the alleged crime and the conditions conducive of it.

2. If there is information about mental limitations not connected to a mental health issue, it shall be established whether or not the minor could fully understand the factual nature and criminal illegitimacy of his actions (inaction) or to control them.

Article 411. Rapidity and Separation of the Proceedings Related to a Crime Attributed to a Minor

1. Any proceedings related to a crime attributed to a minor, from the outset, shall be examined rapidly and without undue delays.

2. The time periods of the criminal prosecution against a minor may not be prolonged during the pre-trial proceedings.

3. The proceedings related to a minor who is charged for 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 the proceedings can adversely affect the fairness of the proceeding, then the rules of this Chapter shall apply to the minors that are charged together with the involved adults.

4. The materials of the proceedings related to a crime attributed to a minor shall not be accessible, unless there is a special need for it, to all the participants in the

proceedings or be publicized, including during the examination of the crime attributed to an adult.

Article 412. Participation of the Defence Counsel in the Proceedings Related to a Crime Attributed to a Minor

1. Participation of the Defence Counsel in the proceedings related to a crime attributed to a minor shall be mandatory from the moment of arresting such person or bringing charges against him.

2. The body conducting proceedings shall not accept the refusal of the Accused from the Defence Counsel, unless it is due to a desire to have a different Defence Counsel. In this case, or in a case when the Legal Representative of the Accused terminates the authorities of the Defence Counsel, the body conducting proceedings shall, in accordance with the procedure envisaged by this Code, immediately take measures to ensure participation of the new Defence Counsel in the proceedings.

Article 413. Participation of the Legal Representative in the Proceedings Related to a Crime Attributed to a Minor

1. Participation of the Legal Representative in the proceedings related to a crime attributed to a minor shall be mandatory.

2. The body conducting proceedings shall ensure the participation of the Legal Representative in the proceedings related to a crime attributed to a minor from the moment of arresting the minor or bringing charges against him. The body conducting proceedings shall clarify to the Legal Representative his rights and obligations prescribed by this Code.

3. In case of exemption of the Legal Representative from participation in the proceedings based on any ground envisaged under Article 69 or Article 72 of this Code, or in case of his removal from the proceedings based on any ground envisaged under Article 147 of this Code, the body conducting proceedings shall immediately involve another Legal Representative of the minor as a participant in the proceedings.

Article 414. Arrest or Detention of a Minor

1. Any decision to restrict liberty of a minor shall be rendered after a careful consideration of all the circumstances of the proceedings, with a view of minimizing such restriction to the extent possible.

2. The Legal Representative of the minor shall be promptly notified of his arrest or detention or of the prolongation of the term of his detention.

3. In case of necessity of application of detention, house arrest, or administrative supervision in respect of a minor arrested on the basis of an immediately arisen reasonable suspicion on having committed a crime, he shall be brought before the court within 48 hours upon the moment of the arrest. If the arrested minor is not detained by the court decision within 12 hours upon bringing him before the court, then he shall be promptly released.

4. When resolving the issue of application of detention in relation to a minor Accused, 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 relation to the minor Accused of committing a minor crime or a crime of medium-gravity only if he has violated the terms of an alternative restraint measure applied to him. In any event, detention may be applied as a restraint measure in relation to the minor Accused only as a measure of last resort and for the shortest time period.

6. In each case, the duration of detention or house arrest applied in relation to a minor during the pre-trial proceedings may be applied or its term may be prolonged by 1 month in each case. The total duration of detention applied in relation to a minor during the pre-trial proceedings may not exceed:

1) Two months - in case of being charged for a minor crime or a crime of medium-gravity;

2) Six months - in case of being charged for a grave or particularly grave crime.

7. In extraordinary cases, detention or house arrest applied in relation to a minor charged for a particularly grave crime may be prolonged by a maximum of another two months.

8. The body conducting proceedings shall discuss and promptly resolve every lawful motion for the release of a minor.

Article 415. Questioning of the Minor Accused

1. The questioning of the minor Accused shall be performed with participation of the Defence Counsel and the Psychologist. The Legal Representative of the minor Accused also shall be entitled to be present during the questioning of the minor Accused.

2. Before starting the questioning of the Accused who has not reached the age of 16, the body conducting proceedings shall explain his right to remain silent, clarifying that the exercise of such right may not be interpreted to his detriment, and informing 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 proceedings shall inform him about the obligation to give truthful testimony, but shall not warn him against the liability prescribed by the law for giving false testimony.

Article 416. Termination of Criminal Prosecution in the Proceedings Related to a Crime Attributed to a Minor

1. If, during the pre-trial proceedings, the investigation of a minor crime or a crime of medium-gravity shows that correction of the minor Accused with no record of having previously committed a crime is possible without bringing him to criminal liability, then the Supervising Prosecutor, upon the motion of the Investigator or on his own initiative shall render a decision on termination of criminal prosecution and shall submit a motion on application of compulsory rearing measures in relation to the minor Accused, providing it to the court along with the materials of the proceedings.

2. The Supervising Prosecutor shall be empowered to terminate the criminal prosecution against a minor without submitting a motion on application of compulsory rearing measures, as well as to refrain from instituting criminal prosecution against him, if all the conditions specified in Paragraph 1 of Article 85 of this Code exist.

3. Termination of the criminal prosecution on a ground envisaged by Paragraph 1 of this Article shall not be permitted, if the Accused or his Legal Representative object to it.

4. The court shall discuss the motion and the materials of the proceedings under the procedure prescribed by Article 287 of this Code.

5. In case of granting the motion, the court shall render a decision on applying in relation to the minor a compulsory rearing measure prescribed by the Criminal Code of the Republic of Armenia. The court shall assign the supervision over the compliance with the requirements of a compulsory rearing measure to a specialized competent body.

6. In case of rejecting the motion, the court shall revoke the decision on termination of criminal prosecution and remit the materials of the proceedings to the Prosecutor for resumption of the criminal prosecution.

Article 417. Peculiarities of the Court Proceedings Related to a Crime Attributed to a Minor

1. In-camera sessions of the court shall be held in the proceedings related to a crime attributed to a minor.

2. An open session of the Court may be conducted only upon the motion of the minor Accused or of his Defence Counsel or Legal Representative, unless it *per se* would be detrimental to the legitimate interests of the minor. In any case, when conducting an open session of the Court the latter shall be obliged to take measures for the protection of the legitimate interests of the minor Accused.

3. The court, upon the motion of a party or on its initiative, after having listened the opinion of Psychologist, may render a decision on the removal of the minor Accused from the courtroom, if the circumstances to be examined may negatively influence him.

4. After the return of the Accused into the courtroom, the Presiding Judge shall provide the Defence Counsel with the opportunity to inform the Accused on the substance of actions performed in his absence as well as to discuss with the Accused the necessity of posing questions to the persons questioned in his absence.

Article 418. Application of the Compulsory Rearing Measure

1. If within the course proceedings sent to the court with an indictment it has been determined that the conditions envisaged by Paragraph 1 of Article 104 of this Code exist, the Court shall render a decision on termination of the criminal prosecution against the minor and on application of the compulsory rearing measures prescribed by the Criminal Code of the Republic of Armenia.

2. When applying a compulsory rearing measure, the court provides the minor and his Legal Representatives with clarification on the substance of the applied measure, as well as the consequences for avoiding from it, violating its terms and committing a new crime.

3. To ensure compliance with the requirements of the compulsory rearing measure, the decision shall be sent to the parties and to the competent body that exercises supervision over the behaviour of the minor.

Article 419. Issues to be Resolved when Rendering a Judgment in Relation to a Minor

1. When rendering a judgment in relation to a minor Accused, the court, in addition to the issues envisaged by Article 348 of this Code, shall resolve the issue of exemption from the punishment in a form of placing at a special educational-rearing institution, as well as shall discuss the reasons of committing the crime, the conditions conducive of it, and the measures aimed at elimination of such conditions.

2. In case of an exemption from the punishment in a form of placing at a special educational-rearing institution, the court shall indicate which specialized body is assigned to exercise supervision over the behaviour of the minor.

CHAPTER 51. PROCEEDINGS ON APPLICATION OF COMPULSORY MEDICAL MEASURES

Article 420. Scope of the Proceedings on Application of Compulsory Medical Measures

1. Proceedings on application of compulsory medical measures (hereinafter, "Medical Compulsion Proceedings") shall be conducted:

1) In relation to a person who committed the alleged crime in a state of insanity;

2) In relation to a person who committed the alleged crime in a state of sanity, and, however, has a mental health issue that makes the imposition or enforcement of the sentence 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 421. Circumstances Subject to Proving under Medical Compulsion Proceedings

1. The following shall be subject to proving during the Medical Compulsion Proceedings:

1) The incident and its circumstances;

2) The commission of the act by the person in question;

3) The culpability and the guilt of the person during commission of the crime;

4) Presence of a mental health issue of the person, as well as its nature, gravity, and time of developing it;

5) The behavior of the person before and after commission of the act;

6) The nature and scale of damages inflicted.

Article 422. Commencement of the Medical Compulsion Proceedings

1. If the grounds for the application of the Medical Compulsion Proceedings emerge during the preliminary investigation, the Investigator shall render a decision on

transforming the criminal proceedings into Medical Compulsion Proceedings, promptly sending the copy of it to the Supervising Prosecutor.

2. If the grounds for the application of the Medical Compulsion Proceedings emerge during the trial examination conducted under general procedure, the court, after hearing the opinions of the parties, upon the motion by the parties or on its own initiative, shall render a decision on transforming the criminal proceedings into Medical Compulsion Proceedings.

3. If more than one Accused persons are involved in the proceedings in question, the proceedings concerning the person specified in Paragraph 1 of Article 420 of this Code shall be separated prior to rendering a decision on transforming the proceedings.

4. Within 48 hours upon the moment of commencement of the Medical Compulsion Proceedings, the body conducting proceedings shall be obliged to provide the copies of the decisions that served as a basis for commencing such proceedings to the person in relation to whom the Medical Compulsion Proceedings are being conducted, as well as to his Defence Counsel or representative, attaching to such documents a memorandum with clarification on the rights and obligations of the addressee.

5. If the grounds prescribed by this Code for conducting Medical Compulsion Proceedings cease to exist, the body conducting proceedings shall render a decision on transforming the Medical Compulsion Proceedings to criminal proceedings, a copy of which shall be promptly sent to the private participants in the proceedings, and by the Investigator – also to the Supervising Prosecutor.

6. In each of the cases of transformation prescribed by this Article, the proceedings shall not be resumed.

Article 423. Rights and Guarantees of the Person in Relation to Whom Medical Compulsion Proceedings are Conducted

1. A person in relation to whom Medical Compulsion Proceedings are conducted shall enjoy all the rights of the Accused, insofar as their exercise is possible in view of such person's health condition.

2. The Medical Compulsion Proceedings shall be conducted within the time periods specified under Article 192 of this Code.

3. If the person in relation to whom Medical Compulsion Proceedings are conducted is completely unable, in view of his health condition, to participate in the procedural actions, then the Investigator shall compose a protocol about it, a copy of which shall be sent to the Supervising Prosecutor, as well as to the Defence Counsel and the representative of that person.

Article 424. The Defence Counsel and the Representative in the Medical Compulsion Proceedings

1. Participation of the Defence Counsel shall be mandatory from the moment of the commencement of the Medical Compulsion Proceedings.

2. By the decision of the Investigator or the Court, the guardian or a close relative of the person may participate in the Medical Compulsion Proceedings as a representative, and, in case of impossibility of involvement of such person - a representative of the medical institution where the person is located.

Article 425. Security Measures in the Medical Compulsion Proceedings

1. Restraint measures may not be applied in the Medical Compulsion Proceedings, and the restraint measures applied prior to the transformation of the proceedings shall be subject to termination.

2. The compulsory measures envisaged by Article 136 of this Code may be applied in the Medical Compulsion Proceedings.

Article 426. Completion of Pre-trial Proceedings under the Medical Compulsion Proceedings

1. The Investigator, considering the evidence collected to be sufficient, shall prepare a conclusive act in compliance with the relevant requirements concerning the indictment, or render a decision on termination of the proceedings, promptly providing it to the Supervising Prosecutor along 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) Approves the conclusive act and provides the materials of the proceedings to the Court;

2) Approves the decision of the Investigator on termination of the proceedings;

3) Does not approve the conclusive act or the decision of the Investigator on termination of the proceedings and remits the materials of the proceedings to the Head of the Investigation Body to continue the preliminary investigation;

Article 427. Preliminary Court Hearings in the Medical Compulsion Proceedings

1. During the preliminary court hearings, the Court shall discuss the following, in the order defined by this Article:

1) The issue of self-recusal, recusal, and exemption from participation in the proceedings;

2) The issue of Court jurisdiction over the proceedings;

3) The issue of termination of the proceedings;

4) The issue of application of a security measure;

5) In case when a property claim has been initiated - the issue of recognizing as a Property Respondent;

6) The issue of the volume of evidence subject to examination;

7) The issue of admissibility of evidence;

8) Other relevant issues.

Article 428. Principal Court Hearings in the Medical Compulsion Proceedings

1. The opening speech of the Prosecutor shall contain the factual description of the incident and shall substantiate the need of application of the Medical Compulsion Proceedings, upon which the Defence Counsel shall make his opening speech. Thereafter,

the evidence presented by the parties shall be examined, and the Parties shall make closing arguments, and the Court shall retire to a separate room for rendering the verdict.

2. When rendering the verdict, the Court shall resolve the following issues in the order presented below:

1) Whether the factual circumstances (act) attributed to the person have been proven;

2) Whether the criminal illegitimacy of such act has been proven;

3) Whether the commission of such act by such person has been proven;

4) If the Medical Compulsion Proceedings are conducted based on the ground envisaged under Clause 1 of Paragraph 1 of Article 420 of this Code - then whether the state of insanity of the person at the time of committing the act has been proven;

5) If the Medical Compulsion Proceedings are conducted based on a ground under Clause 2 of Paragraph 1 of Article 420 of this Code - 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 Clauses 1 to 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 Clause 4 of Paragraph 2 of this Article, the Court shall also resolve the issue stated Clause 5 of Paragraph 2 of this Article.

5. In case of giving an affirmative answer to the question stated in Clause 4 of Paragraph 2 of this Article, the Court shall render an insanity verdict.

6. In case of giving an affirmative answer to all the questions stated in Clauses 1, 2, 3, and 5 of Paragraph 2 of this Article, the Court shall render a guilty verdict, in which it shall also specify which Article, Paragraph, or Clause of the Criminal Code, are to be applied.

Article 429. Supplementary Court Hearings in the Medical Compulsion Proceedings

1. In case of rendering an acquitting verdict, the supplementary court hearings shall be conducted under the general procedure prescribed by this Code.

2. During the supplementary court hearings that follow a guilty verdict or an insanity verdict, the Court shall discuss the following:

1) Issues concerning circumstances mitigating or aggravating the liability of the convicted Accused, and the circumstances characterizing him as a person;

2) Issues related to application of the punishment or a compulsory medical measure;

3) The issue of resolving the property claim;

4) The issue of compensating damages inflicted by the crime;

5) Issues related to the attachment of property;

6) Issues of preservation and disposal of evidence;

7) Issues related to application of a restraint measure or a security measure;

8) Issues related to the costs of proceedings;

9) Other relevant issues.

Article 430. Conclusive Judicial Act in the Medical Compulsion Proceedings

1. Based on the acquitting or the guilty verdict, the Court shall render an acquitting or guilty judgment, respectively. Based on the insanity verdict, the Court shall render a medical compulsion judgment.

2. In the guilty judgment and the medical compulsion judgment, the Court shall also resolve the following issues:

1) Whether the presence of such a mental health issue, which makes the serving of punishment by the person impossible, has been proven;

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 relation to the person.

CHAPTER 52. PROCEEDINGS RELATED TO PERSONS ENJOYING IMMUNITIES AND PRIVILEGES DEFINED BY INTERNATIONAL TREATIES

Article 431. Jurisdiction of the Republic of Armenia over Persons Enjoying Diplomatic Immunity

1. Persons enjoying diplomatic immunity may be under the jurisdiction of the Republic of Armenia in a case when the respective foreign state or international organization has given its clear-cut consent to it.

Article 432. Persons Enjoying Diplomatic Immunity

1. The following persons shall enjoy diplomatic immunity:

1) Heads of diplomatic missions of foreign states, members of the diplomatic staff of such missions, and their co-residing family members, unless they are citizens of the Republic of Armenia;

2) Based on reciprocity, employees of the administrative and technical staff of the diplomatic missions and their co-residing family members, unless they are citizens of the Republic of Armenia or permanently reside in the Republic of Armenia;

3) Based on reciprocity, employees of the service staff of the diplomatic missions, who are not citizens of the Republic of Armenia and do not permanently reside in the Republic of Armenia;

4) Diplomatic couriers;

5) Heads and other officials of consular institutions;

6) Representatives of foreign states, members of parliamentary and governmental delegations, and, based on reciprocity, those members of such delegations of foreign states, who have arrived for international negotiations, international summits or consultations or on other official assignments, or are in the territory of the Republic of Armenia in transit for such purposes, as well as their accompanying family members who are not citizens of the Republic of Armenia;

7) Heads, members, staff, and officials of foreign states' missions to international organizations, who are within the territory of the Republic of Armenia by virtue of international treaties or customary international law;

8) Officials of international organizations presented in the Republic of Armenia who are within the territory of the Republic of Armenia by virtue of international treaties or customary international law;

9) Heads of diplomatic missions in a third state, and members of the diplomatic staff of the diplomatic missions of foreign states, who are within the territory of the Republic of Armenia in transit, as well as their family members accompanying them or travelling separately for reuniting with them or returning to their country.

Article 433. Personal Immunity

1. The persons indicated in Article 432 of this Code may not be arrested or detained, unless it is necessary for the purpose of enforcing a judgment that has entered into legal force in relation to them.

2. The body that has arrested or detained a person indicated in Paragraph 1 of this Article shall be obliged to give a prompt notice thereof to the Ministry of Foreign Affairs of the respective state by fax, telegraph, or other means of communication.

Article 434. Immunity from Criminal Prosecution

1. The persons indicated in Article 432 of this Code shall enjoy immunity from criminal prosecution in the Republic of Armenia. The issue of instituting criminal prosecution against such persons shall be resolved via a diplomatic channel.

2. Employees of the service staff of a diplomatic mission, who 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 435. Privilege against Testifying and Presenting Materials

1. The persons indicated in Article 432 of this Code shall have the right not to testify as a witness or a victim or, in case of their consent to testify, shall not be obliged to appear before the body conducting 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 mentioning of application of compulsory measures in case of a failure 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 proceedings.

Article 436. Immunity of Buildings and Documents

1. The building occupied by a diplomatic mission, the seat of the head of a diplomatic mission, the residential buildings of the members of the diplomatic staff, their property and vehicles shall be immune. Entry into such buildings, as well as performance of evidentiary or other procedural actions therein shall be permitted only upon the consent of the head of the diplomatic mission or the person occupying such position.

2. The limitations envisaged by Paragraph 1 of this Article shall apply, on the basis of reciprocity, to the residential buildings occupied by the employees of 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 do not permanently reside in the Republic of Armenia.

3. A building occupied by a consular institution and the seat of the head of a consular institution shall be immune, based on the principle of reciprocity. Entry into such buildings, as well as performance of evidentiary or other procedural actions therein shall be permitted only upon the request or the consent of the head of the diplomatic mission or a 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 cases envisaged by Paragraphs 1 to 3 of this Article, the body conducting proceedings shall receive the consent of the heads of diplomatic missions and consular institutions through the Ministry of Foreign Affairs of the Republic of Armenia.

6. Examination, search, seizure, arrest and detention in the buildings envisaged by this Article shall be performed in presence of the Supervising Prosecutor and a representative of the Ministry of Foreign Affairs of the Republic of Armenia.

CHAPTER 53. PROCEEDINGS RELATED TO THE LEGAL PERSON

Article 437. General Terms of the Proceedings

1. The provisions of this Chapter shall apply to the proceedings on the crimes attributed to a legal person.

2. The proceedings related to the legal person shall be conducted in a general procedure prescribed under this Code, taking into account the rules envisaged by this Chapter.

3. In connection with the crime envisaged by Paragraph 1 of Article 123 of the Criminal Code of the Republic of Armenia, the fact of bringing a natural person to criminal liability or otherwise establishing his guilt shall not preclude criminal liability of a legal person. These proceedings shall be conducted separately and do not substitute each other.

4. The requirements set by this Code for the documents shall be applicable, in relevant part, to all the procedural acts composed during the proceedings related to the legal person, including, respectively, the validity requisites of the legal person and the data of the Legal Representative of the legal person and the Authorized Representative of the legal person.

Article 438. Procedure for Initiation of the Proceedings

1. Proceedings related to the legal person may be initiated only in a case, when in connection with the crime envisaged by Paragraph 1 of Article 123 of the Criminal Code of the Republic of Armenia, the following exist:

1) The guilty judgment which has entered into legal force;

2) The decision on non-institution of criminal prosecution or on termination of criminal prosecution on non-rehabilitating grounds has entered into legal force.

2. The issue of initiation of the proceedings related to the legal person shall be resolved, by the Prosecutor who, within the proceedings mentioned in Paragraph 1 of this Article, respectively, supervised over the legitimacy of the pre-trial proceedings or the prosecutor who defended charges or the Prosecutor superior to him.

Article 439. Circumstances Subject to Proving

1. The following shall be subject to proving within the proceedings related to the legal person:

1) The incident and the circumstances thereof (time, place, manner, etc);

2) The connection of the legal person with the incident;

3) The features of the alleged crime prescribed under the criminal law;

4) The basis for the criminal liability of the legal person as defined by the Criminal Code of the Republic of Armenia;

5) The nature of the activities of the legal person;

6) Damages inflicted by the alleged crime attributed to the legal person;

7) Financial status of the legal person;

8) The circumstances taken into consideration when imposing the measures of criminal-legal interference prescribed by the criminal law upon the legal person;

9) The circumstances allowing exemption of the legal person from criminal liability and from the measures of criminal-legal interference;

10) The circumstances based on which the person substantiates his property claims in the proceedings;

11) The circumstances, based on which the participant in the proceedings or other person substantiates his claims.

Article 440. Circumstances Precluding Criminal Prosecution of the Legal Person

1. Criminal prosecution against the legal person shall not be instituted and the instituted criminal prosecution shall be terminated, also, if:

1) The grounds prescribed by Article 123 of the Criminal Code of the Republic of Armenia for the criminal liability of the legal person have not been proven;

2) Circumstances precluding criminal liability of the legal person prescribed in Article 124 of the Criminal Code of the Republic of Armenia exist;

3) The legal person is subject to exemption from criminal liability by virtue of Article 125 of the Criminal Code of the Republic of Armenia.

Article 441. Rights and Obligations of the Legal Person

1. Within the proceedings, the legal person shall enjoy the rights and shall bear the obligations prescribed for the Accused under Article 43 of this Code, to the extent they may be attributable to a legal person.

Article 442. Legal Representative of the Legal Person

1. The legal person shall participate in the proceedings through the Legal Representative. A person may act as a Legal Representative in case of having been empowered under the Regulations of the legal person to obtain rights and bear obligations on behalf of the legal person, and to act on behalf of the latter.

2. The person who meets the requirements set under Paragraph 1 of this Article shall be recognized as the Legal Representative of the legal person by the decision of the body conducting proceedings immediately upon the initiation of the proceedings related to the legal person and based on the application of the latter, or, in case of the absence of such application, upon its own initiative.

3. Decision of the Investigator on recognizing as a Legal Representative of the legal person may be appealed to the Supervising Prosecutor by the person whose rights and legitimate interests such decision allegedly relates to within the period of 7 days after receiving the decision

4. A person may not be recognized as a Legal Representative of the legal person, if the criminal prosecution against the legal person was initiated for the crime committed by such person.

5. In case of exempting the Legal Representative from participation in the proceedings based on any of the grounds envisaged by Paragraph 4 of this Article, Article 69 or Article 72 of this Code, as well as in case of removing him from the proceedings based on any of the grounds prescribed under Article 147 of this Code, the Legal Representative, upon the request by the body conducting proceedings, shall be appointed by the authorized state body, provided that it is impossible to involve another Legal Representative of the legal person into proceedings.

6. The Legal Representative shall enjoy all the rights and bear all the obligations of the Accused to the extent they may be applicable to a legal person.

7. The Legal Representative of the legal person may not be questioned as a witness within the same proceedings.

Article 443. Authorized Representative of the Legal Person

1. The Authorized Representative of the legal person is the attorney who performs defence of the legal person within the proceedings related to the legal person upon the invitation of the authorized representative of the latter.

2. The Authorized Representative shall have all the rights and shall bear all the obligations of the Defence Counsel to the extent they may be applicable to a legal person.

3. In case of exemption of the Authorized Representative from the proceedings on any of the grounds envisaged under Article 68 or Article 72 of this Code, as well as in case of his removal from the proceedings on any of the grounds envisaged under Article 147 of this Code, the body conducting proceedings shall offer to the Legal Representative of the legal person to invite another Authorized Representative.

Article 444. Initiation of Public Prosecution against the Legal Person

1. The criminal prosecution against a legal person shall be instituted by a decision of the Supervising Prosecutor on bringing charges against the legal person, based on the facts confirming the presence of the grounds for subjecting it to criminal liability.

2. The decision to bring charges against the legal person shall contain the name of the legal person, the sequential number of the state registration of the legal person, the year, month and day of the state registration, the Tax Payer's Registration Number, the factual basis of the charges, i.e. - the substance of the imputed act, the place, time and manner of its commission and other circumstances, to the extend these have been established under the evidence available, as well as the Article, Paragraph and Clause of the Criminal Code that prescribes for criminal liability for the commission of the act imputed to the legal person (legal assessment of the act).

3. The decision shall be sent to the Investigator for transferring to the Legal Representative of the legal person.

4. The Investigator, having received the decision of the Prosecutor on bringing charges against the legal person shall promptly give it to the Legal Representative of the legal person, clarify the factual basis and the legal assessment of the charges, his rights and obligations under Article 43 of this Code, as well as shall give him the list of those rights and obligations.

5. The fact of performance of the actions envisaged under Paragraph 4 of this Article shall be confirmed by the protocol composed by the Investigator, which shall be signed by the Investigator, the Legal Representative of the legal person and other participating persons. In case of a refusal by the Legal Representative of the legal person or other participating persons to sign the protocol, the procedure prescribed by Paragraph 5 of Article 190 of this Code shall apply.

Article 445. Interim Measures Applied to the Legal Person

1. In order to prevent commission of a crime by the legal person, to ensure performance of the obligations imposed on it by this Code or under a court decision, as well as to ensure the compensation of potential damages caused by the alleged crime and of the

costs of the proceedings, as well as to ensure possible confiscation of the property, interim measures may be applied in relation to the legal person.

2. The interim measures applied in relation to the legal person shall be the following:

1) Bail;

2) Attachment of property;

3) Limitation of the right to carry out certain transactions;

4) Limitation of the right to be engaged in certain type of activities;

5) Prohibition of dissolvement, bankruptcy and reorganization;

6) Suspension of the process of dissolvement and bankruptcy.

3. An interim measure may be applied, if there is a reasonable suspicion that the alleged crime has been *prima facie* committed by the natural person for the benefit of the legal person or is related to his official activities.

4. When choosing the type of an interim measure, all the circumstances possibly ensuring or hindering the activities of the legal person shall be taken into consideration.

5. When resolving the issue of necessity of application or the choice of a type of the interim measure, the following shall be considered:

1) The nature of the activities of the legal person and the consequences caused by such activities;

2) The financial state of the legal person;

3) Status of the natural person in the management body of the legal person who is directly connected with the commission of the crime imputed to the legal person;

4) The measures taken by the legal person aimed at elimination of the consequences of the crime.

6. In relation to the interim measures specified under Clauses 1 and 2 of Paragraph 2 of this Article, the provisions of this Code on bail as a restraint measure and the attachment of property as a compulsory measure shall be applicable to a relevant part.

7. During the preliminary investigation, the interim measures prescribed under Clauses 3 to 6 of Paragraph 2 of this Article shall be applied upon the decision of the

Investigator. Such decision and the materials substantiating it shall be submitted to the competent court within a 3-day period. During the court proceedings, the interim measures shall be applied upon the decision of the court.

8. The decision shall indicate, respectively, those types of the transactions which the given legal person has not been empowered to carry out, as well as those types of the activities, which the given legal person could not be engaged in.

9. If application of the interim measures prescribed under Clauses 3 to 6 of Paragraph 2 of this Article requires rendering of a respective act by any state body or legal person, then the given interim measure shall be implemented through the respective competent state body or legal person.

10. When confirming the decision of the Investigator on application of the interim measures prescribed under Clauses 3 to 6 of Paragraph 2 of this Article, the Court shall be guided, to a relevant part, by the legal provisions prescribed by Chapter 39 of this Code.

11. The body conducting proceedings, may allow, based on the motion by the Legal Representative or the Authorized Representative of the legal person, to implement certain transactions, if it is necessary to ensure normal activities of the legal person.

12. The interim measure applied in relation to the legal person, upon the motion by the Legal Representative or the Authorized Representative of the legal person or on the initiative of the body conducting proceedings, shall be terminated or the limitations applied shall be reduced, if the necessity of application of an interim measure has ceased fully or to some extent. Decision of the Investigator or the court shall be promptly sent, if necessary, to the competent body, for ensuring its enforcement.

Article 446. Completion of the Pre-trial Proceedings in the Proceedings Related to the Legal Person

1. The Investigator, considering the evidence gathered as sufficient, complying with the relevant requirements set for the indictment, shall compose a conclusive act or render a decision on termination of the proceedings, transferring it promptly, along with the materials of the proceedings, to the Supervising Prosecutor.

2. The Supervising Prosecutor, having received the materials of the proceedings, shall render one of the following decisions:

1) On approving the conclusive act and transferring the materials of the proceedings to the court;

2) On approving the decision of the Investigator on termination of the proceedings;

3) On non-approving the conclusive act or the decision of the Investigator on termination of the criminal proceedings and remitting the materials of the proceedings to the Head of the Investigation Body, to continue the proceedings.

Article 447. Court Jurisdiction

1. Proceedings related to the legal person shall be subject to jurisdiction of the First Instance Court of General Jurisdiction within the judicial territory of which the legal address of the given legal person is located.

2. The proceedings related to the legal person registered outside the territory of the Republic of Armenia, shall be subject to jurisdiction of the First Instance Court of General Jurisdiction within the judicial territory of which the alleged crime has been committed.

3. If the alleged crime has been committed outside the territory of the Republic of Armenia, or the identification of a place of commission of the alleged crime is impossible, the proceedings related to the legal person registered outside the territory of the Republic of Armenia, shall be subject to jurisdiction of the First Instance Court of General Jurisdiction within the judicial territory of which the dangerous consequences have emerged.

Article 448. Participation of the Legal Representative of the Legal Person in the Court Session and the Consequences of a Failure to Appear Before the Court

1. The participation of the Legal Representative of the legal person in the court session shall be mandatory. In case of his failure to appear in the court session, it shall be postponed.

2. In case of a failure to appear in the court session without a good reason, the Court shall be empowered to render a decision on forcibly bringing the Legal Representative of the legal person before the court.

Article 449. Negotiations

1. During the preliminary court hearing, upon the motion of the Legal Representative of the legal person or, based on the latter's consent, upon the motion of the Authorized Representative, and upon the consent of the Public Prosecutor, negotiations may be initiated in order to come to an agreement in relation to the measures of criminal-legal interference subject to application.

2. The motion shall be granted by the Court if it has been submitted voluntarily and if the Legal Representative of the legal person understands the nature of the motion and the consequences thereof. In case of granting the motion, a 2-week period shall be established for negotiations between the parties.

3. In case when the damages caused by the crime has not been compensated, the Public Prosecutor, upon the consent of the Victim, shall involve the latter in the negotiations. The Victim shall only participate in the negotiations pertaining to the nature and the volume of compensation for the damages caused by the crime.

4. The parties, having come to an agreement on the nature and the volume of damages subject to compensation, shall proceed to negotiating on a criminal-legal measure of interference that is subject to application against the legal person. The criminal-legal measure of interference determined in a result of an agreement, shall be compliant with the relevant provisions of Chapter 21 of the Criminal Code of the Republic of Armenia.

5. In case of coming to an agreement in a result of negotiations, the parties shall compose a protocol on the agreement, which shall indicate:

1) The place and the time of composing the protocol;

2) The name and the surname and the position of the Public Prosecutor;

3) The name of the legal person, the sequential number of the state registration of the legal person, the year, month and day of the state registration, the Tax Payer's Registration Number, of the legal person;

4) The name and the surname of the Legal Representative and those of the Authorized Representative of the legal person;

5) The name and the surname (legal name) of the Victim, if the Victim has participated in the negotiations;

6) The interim measure applied in relation to the legal person and the time frame of application thereof;

7) The factual circumstances and the legal assessment of the crime indicated in the conclusive act;

8) The nature and the volume of the damages compensated for or subject to compensation;

9) The measure of criminal-legal interference that has been agreed on.

6. In case of combination of several crimes, the protocol shall separately indicate the measure of criminal-legal interference that has been agreed on in relation of each crime, as well as the final measure of criminal-legal interference that has been agreed on.

7. The agreement shall be considered as concluded upon the moment of signing the protocol on the agreement by the Legal Representative or Authorized Representative of the legal person, the Public Prosecutor, as well as by the Victim, in case of his participation in the negotiations.

8. One copy of the protocol on the agreement shall be provided to the court and the persons who have signed.

9. In case of a failure to reach an agreement on any of the issues set under Paragraph 4 of this Article, the preliminary court hearings shall continue in a general procedure established under this Code.

10. Upon the receipt of the protocol on the agreement, the rules established under Article 456 to 459 of this Code shall apply to the actions of the court, to the supplementary court hearings, to the rendering of a judgment and to the scope of appealing the judgment.

Article 450. Judgment in the Proceedings Related to the Legal Person

1. The judgment rendered in the proceedings related to the legal person, in addition to the requirements set under Article 349 of this Code, in each case, shall also

contain conclusions on the proven validity of the purposes and conditions that constitute the respective basis for subjecting a legal person to criminal liability as set under Article 123 of the Criminal Code of the Republic of Armenia.

SECTION 13. PECULIARITIES OF CONDUCTING CERTAIN TYPES OF PROCEEDINGS

CHAPTER 54. PRIVATE PROSECUTION PROCEEDINGS

Article 451. Initiation of the Proceedings

1. Private prosecution proceedings may be initiated when a criminal claim is submitted to a Court by a person who has sufficient grounds to presume that a damage has been inflicted upon him by the acts envisaged by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia.

2. The criminal claim may be submitted only by a person envisaged by Paragraph 1 of this Article or by his Legal Representative.

3. The criminal claim shall contain:

1) The name, surname, and the place of residence or registration of the person envisaged by Paragraph 1 of this Article;

2) The name, surname, and the place of residence or registration of the person against whom the criminal claim is submitted;

3) The substance of the charges, including the respective Article of the Criminal Code or the part thereof;

4) The names, surnames, and the places of residence or registration of the persons who are to be called to the court session;

5) Materials substantiating the charges.

4. A person envisaged by Paragraph 2 of this Article shall submit the criminal claim to the First Instance Court of the place where the alleged crime has been committed.

5. Pre-trial proceedings under the private prosecution procedure shall be conducted solely for the purpose of finding the person who has committed the alleged crime.

Article 452. Actions of the Court before Commencement of the criminal proceedings

1. After receiving the criminal claim, the Judge shall verify whether the requirements concerning the criminal claim, as prescribed by Paragraph 3 of Article 451 of this Code, have been met, whether in relation to the factual circumstances contained in the complaint the criminal proceedings can be performed under private prosecution procedure, and shall render one of the following decisions within a 5-day period:

1) A decision on commencing criminal proceedings;

2) A decision on returning the criminal claim;

3) A decision on sending the criminal claim and the attached materials to the Court that has jurisdiction;

4) A decision on rejecting to commence criminal proceedings.

2. The criminal claim shall be returned, indicating the respective deficiencies, for at least 5-day period, if there are correctable deficiencies.

3. The criminal claim and the attached materials shall be sent according to jurisdiction, if it is established that the place of the commission of the alleged crime lies outside the judicial territory of the respective Court.

4. Commencing the 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) The criminal prosecution in relation to the factual circumstances described in the criminal claim may be performed only under public prosecution procedure;

4) The deficiencies 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 453. Decision on the Commencement of the Criminal Proceedings

1. The decision to commence criminal proceedings shall indicate:

1) The name, surname, and the place of residence or registration of the Victim;

2) The name, surname, and the place of residence or registration of the Accused;

3) Factual description of the charges;

4) Legal assessment of the alleged crime;

5) The materials submitted by the Victim;

6) The year, month, day and hour of the preliminary hearings;

7) The right of the Accused to become familiarized with the materials attached to the criminal claim.

2. From the moment of rendering the decision to commence the criminal proceedings, the person against whom the criminal claim has been submitted shall receive the status of an Accused, and the person who submitted the criminal claim shall be recognized as a Victim.

3. Within a 2-day period, a copy of the decision shall be sent to the Victim and the Accused. A copy of the criminal claim shall be sent to the Accused within the same time period.

4. If after rendering the decision on commencing the criminal proceedings it is established that criminal prosecution against the person Accused under the private prosecution procedure was instituted also under the public prosecution procedure for the same act, then the private prosecution proceedings shall be terminated, and the materials of the proceedings shall be transferred to the body conducting proceedings.

Article 454. Preliminary Court Hearings in the Private Prosecution Proceedings

1. The preliminary court hearings shall be conducted under the relevant provisions of Chapter 42 of this Code, subject to the peculiarities prescribed by this Article.

2. Instead of the issue envisaged by Clause 1 of Paragraph 1 of Article 311 of this Code, the Court shall discuss the issue of possibility of settlement between the Victim and the Accused. If the parties settle, then the Court, based on the agreement drafted by them, shall render a decision on approving such agreement, having ascertained that the agreement corresponds to the law, has been concluded voluntarily and knowingly of the essence and the legal consequences of the agreement. In case of the opposite, the preliminary court hearings shall continue.

3. If, prior to the beginning of the principal court hearings, the Accused submits a criminal claim against the Victim to the Court, the two charges shall be examined in one set of proceedings. In such case, each of the Victims shall also simultaneously be an Accused and shall have the rights and obligations of both the Victim and the Accused.

Article 455. Principal Court Hearings in the Private Prosecution Proceedings

1. The principal court hearings in the private prosecution proceedings shall be conducted under the relevant provisions of Chapters 43 and 44 of this Code, subject to the peculiarities prescribed by this Article.

2. In the principal court hearings in the private prosecution proceedings, the Victim shall act as the Prosecutor who shall bear the burden of proving the charges as presented in the criminal claim.

3. The principal court hearings 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 prior to the Court's retiring to a separate room for rendering a judgment.

4. In case of a settlement, the Court, based on the agreement drafted by them, shall render a decision on approving such agreement, having ascertained that the agreement corresponds to the law, has been concluded voluntarily and knowingly of the essence and the legal consequences of the agreement. In case of the opposite, the preliminary court hearings shall continue.

5. The Victim shall have the right to drop the charges fully or partially before the Court's retiring for rendering a judgment. If the Accused has submitted his written explanations and submitted a motion to conduct the principal hearings without his participation, then, after listening to the opinion of the Victim, the Court shall be empowered to hold the principal hearings in the absence of the Accused.

6. Supplementary court hearings shall not be conducted in private prosecution proceedings.

Article 456. Termination of the Criminal Prosecution and Termination of the Criminal Proceedings during the Principal Court Hearings

1. Private criminal prosecution shall be terminated and the criminal proceedings shall be terminated during the principal court hearings if:

1) The Victim and the Accused have reached a settlement;

2) The Victim has dropped the criminal claim;

3) The Victim or his representative has failed to attend the court session for three times without a good reason.

Article 457. Conclusive Judicial Act

1. A combined judgment, without a verdict, shall be rendered in the private prosecution procedure. A copy of the judgment shall be sent to the parties and to the Prosecutor's Office within a 3-day period.

2. In case of a failure to voluntarily comply with the Court's decision to approve the settlement agreement it shall be enforced in a manner prescribed by the Law on the Compulsory Enforcement of the Judicial Acts.

3. If within the course of principal court hearings it has been determined that the criminal prosecution in relation to the proven act shall be performed only under the public prosecution procedure, the Court shall render a guilty judgment applying the respective Article, Paragraph or Clause of the Article of the Criminal Code of the Republic of Armenia.

4. In case of rendering an acquitting verdict or terminating, in cases prescribed under Clauses 2 or 3 of Paragraph 1 of Article 456, the criminal prosecution and the criminal proceedings, the Court shall also resolve the issue of compensation of the damages caused to the Victim by the actions of the Accused.

CHAPTER 55. AGREEMENT PROCEEDINGS

Article 458. Ground for Application of the Agreement Proceedings

1. The Court shall apply agreement proceedings during the preliminary court hearings in the public prosecution proceedings, based on a motion by the Accused.

2. The Agreement proceedings cannot be applied if:

1) The Accused is being charged with commitment of particular grave crime;

2) At least one of the several Accused persons involved in the proceedings objects against the application of the agreement proceedings;

3) The Accused does not have a Defence Counsel or has submitted a motion without having consulted with the Defence Counsel;

4) The Public Prosecutor objects against the application of the agreement proceedings by presenting legal or factual substantiations;

5) It has been *prima-facie* substantiated that the damage inflicted by the crime has not been compensated, and the Victim objects against the application of the agreement proceedings.

Article 459. Resolution of the Motion to Apply Agreement Proceedings

1. The Court shall grant the motion to apply agreement proceedings, if the ground envisaged by Paragraph 1 of Article 458 of this Code is present, the circumstances precluding the application of the agreement proceedings, as envisaged by Paragraph 2 of Article 458 of this Code, are absent, and the Accused, accepting the act imputed to him, has submitted the motion voluntarily and knowingly of the nature and consequences of his motion.

2. In case of granting the motion of the Accused, the Court shall set a time period of at least one month for the parties to negotiate.

3. The Court shall render a separate decision when rejecting a motion to apply agreement proceedings.

Article 460. Negotiations on the Agreement

1. Once the motion to apply the agreement proceedings has been granted, the Prosecutor shall start negotiations with the Accused and his Defence Counsel for the purpose of reaching an agreement.

2. In a case when the damage inflicted by the crime has not been compensated, but the Victim has not objected against the application of the agreement proceedings, the Prosecutor, upon the consent of the Victim, shall involve him in the negotiations. The Victim shall participate only in the negotiations concerning the nature and the amount of damages inflicted by the crime. In case the damage was caused to the State, then in the negotiations the Prosecutor shall represent the State.

3. After reaching an agreement on the nature and the amount of damages subject to compensation, the parties shall start negotiations on the type and severity of the punishment to be imposed on the Accused, including on the expediency of serving the punishment as well as on the property subject to confiscation and its size. Punishment defined in a result of the agreement and the property subject to confiscation must be in compliance with the relevant provisions of the Criminal Code of the Republic of Armenia.

4. In case of reaching an agreement in a result of the negotiations, the parties shall compose a protocol on agreement, which shall indicate:

1) The time and place of composing the protocol;

2) The name, surname, and the position held by the Public Prosecutor;

3) The name, surname, patronymic, day, month, year and place of birth of the Accused, his residence address, citizenship, education, mother tongue, place of work or education, previous convictions, and other relevant information;

4) The name and surname of the Defence Counsel;

5) The name and surname of the Victim, if the Victim participated in reaching the agreement;

6) The restraint measure applied in relation to the Accused and the time period of its application;

7) The act and its legal assessment agreed on, as specified in the indictment;

8) The nature and the amount of damages compensated or subject to compensation;

9) The type and severity of the punishment agreed on, including the expediency of serving the punishment;

10) The property subject to confiscation an its size (in case it is agreed on).

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 indicate the type and severity of the punishment agreed on for each of the crimes, as well as the type and severity of the final punishment.

7. The agreement shall be deemed concluded when the protocol on agreement is signed by the Accused, his Defence Counsel, the Public Prosecutor, and the Victim if the Victim participated in the negotiations.

8. The Public Prosecutor shall provide one copy of the protocol on agreement to the Court, the Accused, his Defence Counsel, and the Victim.

9. In case of a failure to reach an agreement on the issues envisaged under Paragraph 3 of this Article, the preliminary court hearings shall continue under the general procedure prescribed by this Code.

Article 461. Actions of the Court upon the Receipt of the Protocol on the Agreement

1. After accepting the protocol on agreement, the Court shall render a decision on conducting supplementary court hearings.

2. The Court shall not accept the protocol on agreement and shall continue the preliminary court hearings under the general procedure if, during the negotiations between the parties, the Court, having become familiarized with the criminal case file, has come to a conclusion, that:

1) The act attributed to the Accused was obviously committed by or with the participation of another person that is not the Accused;

2) The legal assessment of the act imputed to the Accused obviously does not correspond to the factual circumstances of the charges.

3. The Court shall not accept the protocol on agreement and shall define maximum time period of 15 days for composing a new protocol and submitting it to the Court, if it is not in accordance with Article 460 of this Code and if the type or severity of the punishment and the property subject to confiscation agreed on is illegitimate. If the parties fail to submit 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 462. Supplementary Court Hearings in the Agreement Proceedings

1. Supplementary court hearings shall be conducted with the mandatory participation of the Accused, his Defence Counsel, the Public Prosecutor, and, if Victim participates in the negotiations, also the Victim.

2. Supplementary court hearings shall begin with publicizing of the protocol on agreement by the Prosecutor.

3. After publicizing 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 expressed his genuine will, understands the consequences of the concluded agreement, and insists upon the concluded agreement.

4. The Court shall ask the Defence Counsel and Public Prosecutor whether they insist upon the concluded agreement.

5. The Court shall ask the Victim whether he insists upon the concluded agreement, in part of damages subject to compensation.

6. After examining the protocol on agreement, the Court shall retire to a separate room, announcing in advance the place, year, month, day, and hour of publicizing the judgment.

7. If, the responds to questions envisaged by Paragraphs 3 to 5 of this Article are negative and at any time prior to the Court's retiring 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 hearings.

Article 463. Rendering of a Judgment in the Agreement Proceedings

1. As a result of the agreement proceedings, the Court shall render a guilty judgment in a manner defined under Articles 347 to 350 of this Code, taking into consideration the peculiarities envisaged by this Article.

2. The guilty judgment shall contain the literal statement of the text of the protocol on agreement.

3. By the guilty judgment, the Court shall impose the punishment of the type and the severity as well as the property subject to confiscation and its size defined by the protocol on agreement.

4. If there is a property claim, it shall be left without resolution.

5. Costs of proceedings envisaged by Paragraph 1 of Article 167 of this Code shall not be confiscated from the Accused.

6. After publicizing the judgment, the Judge shall also clarify to the parties the limitations prescribed by this Code for appealing the judgment.

Article 464. Scope of Appealing a Judgment Rendered in the Agreement Proceedings

1. The judgment rendered in accordance with Article 463 of this Code may be appealed in a manner prescribed by this Code, but may not be appealed on the basis of the grounds envisaged under Article 373, Paragraphs 1 to 3 of Article 375, and Article 377 of this Code.

CHAPTER 56. COOPERATION PROCEEDINGS

Article 465. Objective of the Cooperation Proceedings and the Ground for Application Thereof

1. Cooperation proceedings shall be applied with the objective of ensuring the solution of medium grave, grave and particularly grave crimes and the inevitability of liability for the persons who committed them.

2. Cooperation proceedings may be initiated only if a person Accused has submitted a written motion (hereinafter "a Motion on Cooperation") on concluding a pre-trial agreement.

3. A Motion on Cooperation shall be related to the crime allegedly committed by another person and this crime shall be of the equivalent gravity or of more severe gravity than the one attributed to the Accused.

Article 466. Procedure for Submitting a Motion on Cooperation

1. The Motion on Cooperation shall be addressed to the Supervising Prosecutor and be signed by the Accused and his Defence Counsel.

2. The Motion on Cooperation may be submitted from the moment of institution of criminal prosecution against the Accused up to the moment of announcing the completion of the preliminary investigation.

3. The Motion on Cooperation shall specify the nature of the cooperation of the Accused and the actions that the Accused undertakes to perform to in order to ensure solving of the crime or the inevitability of liability of the person who has committed it.

4. The Accused or his Defence Counsel shall transfer the Motion on Cooperation to the Supervising Prosecutor through the Investigator. If the Accused has no Defence Counsel at the time of submitting the motion, then the Investigator shall take measures to ensure participation of a Defence Counsel in the proceedings and shall give the Accused an opportunity of discussing the motion with the Defence Counsel.

5. Within 3 days upon the receipt of the motion signed by the Accused and the Defence Counsel, the Investigator shall transfer it to the Supervising Prosecutor, attaching his written opinion on granting or rejecting the motion.

6. If more than one Accused persons have expressed a desire to conclude pre-trial agreement on cooperation within the same proceedings, each one of them shall submit a separate Motion on Cooperation.

Article 467. Resolution of the Motion on Cooperation

1. Within 3 days upon the receipt of the Motion on Cooperation and the Investigator's opinion thereon, the Supervising Prosecutor shall render a decision on granting or rejecting the motion.

2. The Motion on Cooperation shall be rejected if it does not correspond to the conditions prescribed under Articles 465 and 466 of this Code, or if the Supervising Prosecutor finds such cooperation unnecessary.

Article 468. Procedure for Composing a Cooperation Agreement

1. If the Motion on Cooperation is granted, the Supervising Prosecutor shall compose a cooperation agreement, with the participation of the Investigator, the Accused, and his Defence Counsel.

2. The cooperation agreement shall indicate:

1) The place and time of composing it;

2) The name, surname, and the position of the Supervising Prosecutor;

3) The name, surname, patronymic, day, month, year, and place of birth of the Accused, his residence address, citizenship, education, place of work or education, previous convictions, and other relevant information;

4) The restraint measure applied in relation to the Accused and the time period of its application;

5) The name and surname of the Defence Counsel and the basis for his participation in the proceedings;

6) Factual description of the charges brought against the Accused and the legal assessment of the act as well as the fact that the charge is not being challenged by the Accused;

7) The nature of cooperation and the actions that the Accused undertakes to perform in order to achieve the goal of cooperation;

8) The provisions of the Criminal Code of the Republic of Armenia that will be applied if the Accused properly fulfils his obligations under the agreement;

9) The property subject to confiscation and its size (in case of such indication);

10) Notice that the data obtained during the cooperation may be used as evidence in case of refusal of the Accused from the cooperation;

11) Voluntary conclusion of the cooperation agreement by the Accused, awareness of its nature and consequences.

3. If the damages inflicted upon the Victim by the act imputed to the Accused has not been compensated, then the agreement shall also indicate the obligation of the Accused to fully compensate such damages.

4. If, in case of a security risk for the Accused, his close relative or other person related to the Accused, it is necessary that the respective security measures prescribed under this Code are undertaken in relation to such person, this shall be indicated in the agreement.

5. The agreement shall be signed by the Supervising Prosecutor, the Accused, and the Defence Counsel. One copy of the agreement shall be delivered to each of the Accused and the Defence Counsel.

6. If the motions 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.

7. New agreement on cooperation shall be composed in compliance with the relevant requirements of this Chapter if during the pre-trial investigation a necessity arises to change or supplement the cooperation agreement.

Article 469. Preliminary Investigation Conducted in Cooperation Proceedings

1. The Preliminary Investigation in cooperation proceedings shall be conducted under the general procedure prescribed by this Code, taking into consideration the rules envisaged by this Chapter.

2. Once the cooperation agreement is composed, the proceedings in relation to the Accused in question shall be separated. The Motion on Cooperation, the Investigator's opinion thereon, the Supervising Prosecutor's decision on granting the motion, and the cooperation agreement must be attached to the materials of the separated proceedings.

3. During the cooperation proceedings, the Supervising Prosecutor shall be empowered, upon the motion by the Investigator, to suspend the criminal prosecution against the Accused on a ground envisaged by Clause 4 of Paragraph 2 of Article 193 of this Code, if it is necessary for ensuring the proper performance of the obligations undertaken by the Accused under the agreement.

4. In case of a threat to the security of the Accused, his close relative, or 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 on taking the special protection measures envisaged by this Code in relation to the respective person.

5. Upon the completion of the preliminary investigation, the Investigator, in accordance with the procedure envisaged by Article 203 of this Code, shall transfer the materials of the proceedings to the Supervising Prosecutor for approving the indictment and composing a motion on application of a special procedure of trial examination in relation to the Accused.

Article 470. Refusal from Cooperation

1. Prior to the performance of his obligations undertaken by the cooperation agreement, the Accused shall be entitled to refuse from 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 471. Motion for Application of a Special Procedure of Trial Examination in Relation to an Accused who has Concluded a Cooperation Agreement

1. Under the procedure and within the time frames envisaged by Article 205 of this Code, the Supervising Prosecutor, having studied the materials of the proceedings received from the Investigator as well as the evidence confirming proper performance of the obligations undertaken by the Accused under the agreement, shall approve the indictment and submit a motion to the competent Court on application of a special procedure of trial examination in relation to the Accused, or shall reject by his decision sending the materials of the proceedings with such a motion to the Court, if the obligations undertaken by the Accused under the agreement have not been fulfilled or have not been properly fulfilled.

2. Such motion shall indicate:

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 liability of the person who committed the crime;

3) Evidence confirming that the Accused has properly fulfilled his obligations undertaken by the agreement;

4) The special protection measures applied in relation to the Accused, his close relative, or other person related to him, and the grounds and the objective of their application.

3. A copy of the motion shall be handed to the Accused and to his Defence Counsel who shall be entitled to submit their observations on the motion to the Court.

4. The decision to reject sending the materials of the proceedings to the Court with a motion on application of special procedure of trial examination in relation to the Accused shall be provided to the Accused and to the Defence Counsel, and such decision may be appealed to the Superior Prosecutor within 7 days upon its receipt. The materials of the proceedings may not be sent to the Court before the appeal is resolved.

Article 472. The Basis for and the Terms of Conducting a Special Procedure of Trial Examination in the Cooperation Proceedings

1. During the preliminary court hearings, the Court shall discuss the issue of conducting the trial examination under a special procedure in respect of the Accused, who concluded a cooperation agreement, if the Prosecutor submitted such a motion when sending the materials of the proceedings to the Court.

2. The Court shall grant the motion to conduct the trial examination under a special procedure if the Court becomes ascertained that:

1) The pre-trial agreement on cooperation was concluded by the Accused voluntarily, realizing its nature and consequences, with participation of the Defence Counsel, and in compliance with other requirements set by this Chapter;

2) Evidence has been presented, which is *prima facie* sufficient to show that the Accused has properly fulfilled his obligations under the agreement;

3) The cooperation of the Accused has not manifested in communicating data pertaining solely to his own participation in the commission of the crime;

4) There is no data to obviously indicate that the Accused has not committed the act imputed to him;

5) There is no data obviously indicating that the legal assessment of the crime imputed to the Accused does not correspond to the factual circumstances of the charges.

3. In absence of any of the conditions envisaged by Paragraph 2 of this Article, the Court shall render a decision on rejecting the conduct of a trial examination under a special procedure and on continuing the preliminary court hearings under the general procedure.

4. In case of granting the Prosecutor's motion, the Court shall render a decision on conducting supplementary court hearings.

Article 473. Supplementary Court Hearings in the Cooperation Proceedings

1. Supplementary Court hearings in the cooperation proceedings shall be conducted with the mandatory participation of the Accused, his Defence Counsel, the

Public Prosecutor, and the Victim (if the judgment to be rendered may touch upon his interests).

2. At the beginning of the supplementary court hearings, the Public Prosecutor shall present the factual basis of the charges and the legal assessment of the act imputed to the Accused, after which he shall confirm the fact of cooperation by the Accused and clarify to the Court how exactly it has been manifested.

3. The Accused and the Defence Counsel shall be entitled to provide their observations on the nature of the cooperation of the Accused and other essential circumstances.

4. During the supplementary court hearings, the evidence establishing the following shall be examined:

1) The nature and the scope of cooperation of the Accused;

2) The proper fulfilment by the Accused of his obligations under the agreement;

3) The role and significance of cooperation with the Accused in ensuring the solving of the crime and the inevitability of liability of the person who has committed it;

4) The circumstances characterizing the Accused as a person, as well as the circumstances mitigating and aggravating his liability;

5) The level of threat to the security of the Accused, his close relative, or other person related to the Accused, resulting from the cooperation.

Article 474. Rendering of a Judgment in the Cooperation Proceedings

1. In a result of the cooperation proceedings, the Court shall render a guilty judgment under the procedure envisaged by Articles 347 to 350 of this Code, taking into consideration the peculiarities prescribed by this Article.

2. The judgment shall state:

1) The factual description and legal assessment of the crime imputed to the Accused;

2) Conclusions of the Court in relation to the fulfilment of the obligations by the Accused under the pre-trial agreement on cooperation, and the evidence supporting such conclusions;

3) Conclusions of the Court in relation to the achievement of the goal of cooperation, as well as the evidence supporting such conclusions.

3. In case of considering, based on the evidence examined, that the fulfilment of obligations assumed by the Accused under the agreement and the achievement of the goal of cooperation as established, the Court, shall render a guilty judgment and impose a punishment in relation to the Accused, and define the property subject to confiscation and its size taking into consideration the relevant provisions of the General Part of the Criminal Code of the Republic of Armenia.

4. Costs of the proceedings envisaged by Paragraph 1 of Article 167 shall not be subject to confiscation from the Accused.

5. If the circumstances envisaged by Paragraph 3 of this Article have not been established, the Court shall render a decision on resuming the preliminary court hearings.

6. After publicizing the judgment, the Judge shall also clarify to the parties the limitations prescribed by this Code for appealing the judgment.

Article 475. Peculiarities of the Review of the Judgment Rendered in the Cooperation Proceedings

1. The judgment rendered in cooperation proceedings may be appealed under the procedure envisaged by this Code, but may not be appealed based on the grounds envisaged under Article 373 or Paragraphs 1 to 3 of Article 375 of this Code.

2. If, after imposing a punishment in relation to the Accused under the rules of this Chapter, it has been discovered that he intentionally communicated lies to the preliminary investigation body or concealed any essential information, then the judgment shall be subject to a review under the procedure envisaged by Chapter 49 of this Code.

CHAPTER 57. PROCEEDINGS CONDUCTED IN THE ABSENCE OF THE ACCUSED

Article 476. Ground and Conditions for Conducting Proceedings in the Absence of the Accused

1. The proceedings in the absence of the Accused (hereinafter, Remote Proceedings) shall be conducted only, when the Accused evades from participating in criminal proceedings. Remote Proceedings may be conducted, if the Accused is properly notified about the criminal prosecution initiated against him, and the body conducting criminal proceedings has undertaken all the necessary and sufficient measures for ensuring the participation of the Accused in the proceedings.

2. No Remote Proceedings may be conducted, if:

1) The participation of the Accused in the proceedings is impossible due to a good reason;

2) The Accused is minor;

3) The Accused has committed the alleged crime in a state of insanity, or has a mental health issue that makes the imposition or enforcement of the sentence impossible, or there is a reasonable suspicion that the Accused is in such a condition.

3. Remote Proceedings shall be conducted upon the general procedure envisaged by this Code, taking into consideration the rules stipulated in this chapter.

Article 477. Commencement of Remote Proceedings

1. If, during the preliminary investigation, the ground and conditions of conducting Remote Proceedings envisaged in Paragraph 1 of Article 476 of this Code emerge and, at the same time, the circumstances precluding the conduct of Remote Proceedings envisaged in Paragraph 2 of the same Article are absent, then the Investigator shall render a decision on conducting Remote Proceedings in respect of such Accused. Such decision may be rendered before the conclusion of preliminary investigation.

2. If, during the trial examination conducted upon the general procedure, the ground and conditions of conducting Remote Proceedings envisaged in Paragraph 1 of

Article 476 of this Code emerge and, at the same time, the circumstances precluding the conduct of Remote Proceedings envisaged in Paragraph 2 of the same Article are absent, then the court, after hearing the opinions of the parties, shall render a decision on conducting Remote Proceedings in respect of such Accused, upon his own initiative or upon the motion of a party and prior to the court's retiring to the separate room for rendering a judgment.

3. If the ground or one of the conditions of conducting Remote Proceedings envisaged by this Code is not established, or any circumstance precluding the conduct of Remote Proceedings envisaged by this Code emerges, then the body conducting proceedings shall render a decision on conducting proceedings upon general procedure.

4. In case of rendering the decisions envisaged in this Article, the proceedings shall not be restarted.

Article 478. Guarantees and Rights of the Accused in Remote Proceedings

1. The participation of a Defence Counsel is mandatory from the moment of commencement of Remote Proceedings.

2. If the Accused does not have a Defence Counsel involved in the proceedings, then the Investigator, within a three-day time period after the commencement of Remote Proceedings, shall sent to the evading Accused and, in case of objective impossibility thereof, to any of his close relatives the copy of the decision on conducting Remote Proceedings in respect of such Accused and give a ten-day time period for inviting a Defence Counsel, as well as explain in writing the consequences of conducting Remote Proceedings and of not inviting a Defence Counsel in the given time period. If a Defence Counsel is not invited in the given time period, the Investigator shall request from the Chamber of Advocates of the Republic of Armenia to appoint a Defence Counsel.

3. In Remote Proceedings, all the rights of the Accused, save the rights inseparable from the person of the Accused, shall be exercised through his Defence Counsel. The rights inseparable from the person of the Accused shall not be exercised.

4. The Defence Counsel may admit the relation of the Accused to the crime and his guilt in committing it only when the Accused has, in writing, clearly and properly, informed the body conducting proceedings about it.

Article 479. Pre-trial proceedings conducted under Remote Procedure

1. After the beginning of Remote Proceedings, the Investigator shall immediately send the copy of the decision on conducting Remote Proceedings to the Supervising Prosecutor as well as to the private participants in the proceedings.

2. If charges were not brought against the Accused before rendering a decision on conducting Remote Proceedings, then the time period for bringing charges envisaged in paragraph 1 of Article 190 of this Code shall begin to flow from the moment of involvement of Defence Counsel in the proceedings in a manner prescribed under Paragraph 2 of Article 478 of this Code.

3. In the Remote Proceedings the charges shall be brought by handing to the Defence Counsel of the Accused evading from the criminal proceedings the copy of the decision on initiating criminal prosecution as well as by explaining him the factual ground and legal assessment of the charge. The performance of those actions shall be confirmed by respective protocol and the Investigator and Defence Counsel shall sign the protocol.

4. In case of rendering a decision on conducting proceedings upon general procedure, its copy shall immediately be sent to the Supervising Prosecutor and the private participants in the proceedings.

5. When sending the materials of the proceedings to the Court in a manner prescribed under paragraph 1 of Article 206 of this Code, the Supervising Prosecutor shall indicate in a respective decision that the pre-trial examination is being conducted under Remote Proceedings and shall submit a motion to conduct trial examination under Remote Proceedings in relation to the Accused evading the criminal proceedings.

Article 480. Trial Proceedings Conducted under Remote Procedure

1. Before the examination of the Prosecutor's motion to conduct Remote Proceedings, the Court shall find out whether the Defence Counsel of the Accused, evading from the proceedings, has been provided with the copy of the indictment. In case the Defence Counsel has not been provided with such document, the Court shall postpone the court hearings for three days and shall oblige the Public Prosecutor to hand immediately to the Defence Counsel the copy of indictment.

2. In the preliminary hearings conducted under remote procedure the Court shall discuss the issue of conducting Remote Proceedings against the Accused, evading from the proceedings, instead of the issue envisaged in Clause 6 of Paragraph 1 of Article 311 of this Code.

3. The Court shall grant the motion to conduct the proceedings under remote procedure if:

1) There is a ground and condition for conducting Remote Proceedings prescribed under this Code;

2) No circumstances exist precluding the conduction of Remote Proceedings prescribed under this Code;

3) At the moment of the commencement of Remote Proceedings the Defence Counsel was involved in the proceedings or after the commencement of the Remote Proceedings the Defence Counsel was involved in the proceedings in a manner prescribed under paragraph 2 of Article 478 of this Code.

4. The Court shall render a separate decision to refuse the conduction of Remote Proceedings in relation to the given Accused and to continue the preliminary hearings under general procedure if one of the circumstances stipulated in Paragraph 3 of this Article are not established.

5. If the Accused has given testimony in pre-trial proceedings, then in the preliminary hearings it shall be publicized in a manner prescribed under Article 330 of this Code.

6. In case of participation of the Accused in trial examination, the Court shall render a decision on conducting the proceedings under general procedure and shall give him reasonable time to study the criminal case file.

7. In relation to the Accused detained based on the verdict on the application of detention as a restraint measure or leaving it unchanged, which has not entered into legal force, the procedure prescribed under the Article 290 of this Code shall be applied.

Article 481. The Peculiarities of Appeal and Review in the Remote Proceedings

1. The defence party may appeal the judicial act, rendered in a result of Remote Proceedings, which has not entered into legal force, on the grounds prescribed by this Code and on the ground of unlawful application of the Remote Proceedings in a manner envisaged by this Code.

2. In case the appeal is granted based on the additional ground prescribed under Paragraph 1 of this Article, the higher court fully reverse the judicial act, transferring the proceedings to the respective lower court for new examination.

3. The judicial act rendered in a result of Remote Proceedings and not entered into legal force shall be a subject to review based on the appeal of the Accused (on the ground prescribed by Paragraph 1 of this Article) in a manner prescribed in Chapter 49 of this Code, if previously it has not been appealed by the Accused on the same ground. In that case from the moment of rendering a decision to conduct special review the enforcement of the judicial act in relation to the punishment shall be suspended.

4. In case the judicial act is reversed based on the additional ground envisaged in the Paragraph 1 of this Article, in new examination the evidence examined in the proceedings conducted in the absence of the Accused may not be used.

PART FIVE: FINAL AND TRANSITIONAL PROVISIONS

SECTION 14. FINAL AND TRANSITIONAL PROVISIONS

CHAPTER 58. FINAL AND TRANSITIONAL PROVISIONS

Article 482. Final Provisions

1. This Code shall enter into force from the 1st of July, 2022, except for the provisions for which another time period of entry into force is prescribed under Article 483 of this Code.

2. From the moment of the entry of this Code into force, the Criminal Procedure Code of the Republic of Armenia adopted on the 1st of July, 1998, with all subsequent alterations and supplements thereto, shall be repealed, except for the cases prescribed under Article 483 of this Code.

Article 483. Transitional Provisions

1. Reports on the crime received by an Inquiry Body prior to the entry of this Code into force, in relation to which no decision has been rendered on instituting a criminal case or rejecting institution of a criminal case, for the purpose of resolving the issue of institution of criminal proceedings, shall be sent to the Investigator through the Supervising Prosecutor within five days upon the entry of this Code into force, complying with the rules of investigative jurisdiction defined by this Code.

2. Criminal cases pending under the proceedings by the Inquiry Body as of the 1st of July, 2022, for the purpose of performing preliminary investigation under the procedure envisaged by this Code, shall be sent to the Investigator through the Supervising Prosecutor within 5 days upon the entry of this Code into force, complying with the rules of investigative jurisdiction defined by this Code.

3. Preliminary investigation in relation to the persons involved as an Accused prior to the entry of this Code into force shall be continued under the procedure that was in effect prior to the 1st of July, 2022.

4. Cooperation proceedings envisaged by this Code may be applied also in relation to the persons involved as an Accused who has not signed cooperation agreement prior to the 1st of July, 2022, provided that it can be done in compliance with the requirements of this Code.

5. The time frames of criminal prosecution prescribed under this Code shall be in effect in relation to the persons involved as an Accused after the 1st of January, 2023.

6. Proceedings in criminal cases suspended before the 1st of July, 2022, shall be resumed within a period of six months by a decision of the Investigator.

7. Judicial oversight of the pre-trial proceedings in criminal cases instituted prior to the entry of this Code into force shall be performed under the procedure that was in effect prior to the 1st of July, 2022, except for the case envisaged under Paragraph 8 of this Article.

8. Detention as a restraint measure in respect of the persons involved as the Accused prior to the entry of this Code into force, and the termination or prolongation of the term of the detention already applied shall be performed on the grounds and in a manner prescribed under this Code.

9. The Criminal Cases, in which as of the moment of the entry of this Code into force the preliminary investigation has completed with an indictment or a conclusive act, shall be sent to the Court and examined in a manner prescribed under this Code.

10. Admissibility of evidence obtained prior to the entry of this Code into force shall be determined in accordance with the legislation that was in effect at the time of obtaining such evidence.

11. Private accusation proceedings envisaged under Chapter 54 of this Code shall apply in the proceedings after the Courts empowered to conduct such proceedings and has been established and the Judges have been assigned. Before that the criminal prosecution in the proceedings prescribed by Paragraph 1 of Article 15 of the Criminal Code of the Republic of Armenia shall be performed under the general procedure.

12. The criminal cases in which a decision to schedule a court examination was rendered prior to the entry of this Code into force shall be examined and resolved in a manner that was in effect prior to the 1st of July, 2022.

13. The appellate and appeal on points of law against the judicial acts rendered prior to the entry of this Code into force shall be brought and examined in a manner that was in effect prior to the 1st of July, 2022.

14. Appeals submitted on the grounds of the new or the newly emerged circumstances against the judicial acts that entered into legal force prior to the entry of this Code into force, after the entry into force of this Code shall be examined in a manner that was in effect prior to the 1st of July, 2022.

15. Appeals for extraordinary review against the judicial acts that entered into legal force prior to the entry of this Code into force shall be brought and examined in a manner prescribed by this Code.

16. Provisions of Chapters 54, 54.1, 54.2, 54.3, 54,4 of the Criminal Procedure Code of the Republic of Armenia adopted on the 1st of July, 1998, shall not be revoked.

17. Articles 123 and 124 of this Code shall enter into force from the 1st of January, 2023.

18. Instead of the participation of a Psychologist, as specified in Articles 212, 329 and 415 of this Code, participation of a Pedagogue shall be considered as lawful until the 1st of July, 2023.