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COUNCIL OF EUROPE



Implemented  
by the Council of Europe

**“ Supporting the criminal justice reform and standards in Armenia ”**

# \$\$ % &

' \$ % # !

# \$ ! !

( %\*) \*

*“ Supporting the crimin*

! " # \$ %

+ # ( !, ( \$ \$ %

! ! ! " !

# ! ! ! !

\$ ! ! ! !

% #

' ( ) %

% \* !

% ! +

\* ! %

# ! ! !

- ( # !

! Procedure % Code Draft the Code" ) prepared by a  
 ( # )!

! % + % & ' ' !  
d o p t e d o n 1 J u l y 1 9 9 8 ( " t h e 1 9 9 8 C o d e

\*! ' % + - ' /% . - ' % . /0  
, ' 01  
01  
S e x u a l E x p l o i t a t i o n a n d S e x u a l A b u s e ( " t h e

3! 2 , ' , # #  
% + \$ #  
- " ' ' # 5  
# ! #

6! % ' \$ ' % +  
' ' ! ' 5

7! ! ! ,

8! " ' % +  
# # !

9! . % +  
!

! " #) '#  
( : ; : ' < " S u p p o r t i n g  
#  
A r m e n i a " ,

---

4 " - \$ 7! ( " # , :  
\* : , ( \$ ' ; = , ( , 4 ' ! # , :  
; ; 4 , ' ; ' = , ( , 4 ' !  
\*

- # ! % # !. % !

! # ' 5 % 4 + ,

! ( reference to that "es". # +  
" ' . # . % +  
5 ' !

! !

\*! prohibition in paragraph 2 of the u  
' & +!

3! / ! !

6! 0 ' #  
' ' !

7! , \$ ' 9 #  
5 - ' 9 ' !  
# 5 ' !

8 & . & ' , # ,  
' % & ' / ,  
# 1 , ' #  
# ' 5 !

9! / %  
# !

1 2 ! 3  
! ' \* 8 \*  
" & " #!

! ! !  
! definition in paragraph 56 of a "Ho  
apartments as they only form part of "a bu  
constituent parts thereof" comes long aft  
! 2 ' \$  
such as "or a' par# t h d r e e o f e" r m "a  
" ..

! 41 !  
5 6  
\*!& . # ' # ' \$  
\$ " . , ' \$  
!"

3! ! !  
! !  
.7 6 &  
6! # paragraph 3 of "interconn  
#  
! (. # - \$ . - . #  
5 ' ' . be "in the interests of justice  
fairness of the proceedings".

7! ! ! %  
! ' !  
! #  
./

8The proposed preclusion of prosecution on  
the act incriminated to him" is unclear a  
#





3 2 # . . &  
! ( , #  
the "Legal Representative" of the  
Accused" ! B ,  
that "Abused"  
\$ - & #  
! 2 ' .

3\*! . / !  
33! . \* +  
' ' # ' 5 '  
& 7  
effective and not merely "theoretical and i

36! 8 ! ! "  
! !  
37! / . ' !  
5 ' # & 7 #  
' . # & #  
" ' B /  
7 - , 1!

by the proposed use of "In court" at  
38! here is thus a need to be met

//  
39! ' . \* ' ' .  
# . ! & , .  
" ' !

3 ! 8  
% !

---

<sup>6</sup>4 , !.!, \*! ( # 9 , ! 77 3@83, \* ) #% 9 , ! \*99\* @ 8,  
<sup>7</sup>4 , !.!, 3 2 D ! \*366@ 6, B! #



6 ! ' . 6 # ' . #!

6 ! *guilt should also be "compelling"*.

6 2 ' # 8 #  
' # & 7  
# ' 8! "  
E , - ' 5 ' !

/0  
6\*! # . / 31 .  
the "accused has been under custody long\$  
' - ' ' # .  
' ' ' ' ! & ' .  
' " ' ' ' # " .  
' !

63! , 0;/< ! ! %  
! ! !

/4 ! = # #  
66! ' ' ' # #  
' 7 ' ' & 3  
' ' 9 ' !

672 "in error"  
\$ . 5 & ' & \*3 !

68! !1 !

---

<sup>8</sup>& -C D!, ! 63@ , 6 + ' 6!  
<sup>9</sup>4 & ! > % C D, ! 3 \* @ \*, B! #  
4 /6 !1, ! 6 968@ 9,! & 6

69! /5 ! \*  
# ' . 5 ' 7/ 1 &  
' . , ' & # #  
' . - . # # &  
- . # #  
' " ' &!

6 ! ! " !

7 2 /:  
\$ # '  
' \*! - , ' # '  
& #

7 ! #

7 2 81  
2 . ! - , . & \*6  
' . 2- . . !

7\*! ! ' !

73B 08  
& ' ' # " # '

---

4 % + 3 ? / 3!1, 2 66 @96, 6 ) # 99!  
4 , !.!, = 3 2, ! \*9\* 6@ , B # 7!  
\*4 , !\*!, + / !!1, 6\*!3 @ 9, 9 ( !



Article 45. Grounds and Conditions of the

83& . ' # # ' & #  
% & ' . ' ' # # ,  
# . ' 5 ' ' .  
& \$ . 5 ' 6!

86! !  
' 0 ! 0@

01 6 ! " 5 ' .  
87! " 7 ' ' ' .  
' . ' ' ' \$ .  
' ' # # . !

88& . ' # ' ' ' +  
' . ' , . #  
" !

89B ' , . . . .  
# " #!

8 There is thus a need to provide that the  
1  
from the moment of presenting charges".

0@ " ' +  
9 ! . ' ' # & # ' !  
' ' ' ' ' ' !

9 ! ' + #  
# # ' & ' ' #  
# # . 2 & 36! / 1  
' !

9 ! / ! !

---

<sup>64</sup> - , !! \*7 @99, 6 4 ' , ! \* !

9\*! . \* +  
! \$  
' # +  
7 2 5 # #! , . +  
# . ' . +  
. !

93! *here is thus a need to qualify paragraph interests of justice so require" and by a*

0: "  
962 +  
' ! - . the term "proper" used  
/ 61 . 8!

97! ' " !

98& . 5 ' . 3/\*1 +  
by the instructions of the "body # conduct  
, 5 ' . #  
!

99! ' ! ! !

47 9  
9 & . 3 ' , # ' , = ' .  
" # ; . % ,  
\$ ' # ' # ' .  
\$ ' # ' " ' .  
! ' F ! ' & \* ,  
' ' ' ' 2 ! \$ ' .  
# \$ ' !

<sup>74</sup> , !.!, , ! 7 @ \* , & 9!  
<sup>81</sup> It should be noted that Article no 55cd(8) of provisions for  
% . # ' !

! 0 ! #  
./ 8/:  
4. 9 " 9  
& # 9 \* #  
! ' . \* # ' .  
= ' ' = ' ' .  
# 5 5 #  
#! - , ' . 5 5 #  
\*! %  
3 2 # 3  
= ' ' .  
\$ #  
6! 0  
4:  
7! 3 " ' # "  
' ' # \$ "  
' # ' !  
8! 0  
' 1 \$  
9! 5 ' " p e r s o n #  
d i s i n t e r e s t e d i n t h e s u b j e c t m a t t e r o f t h  
# . , # ' .  
# / # 1 . . ! \$ #  
!2 , ' .  
! !  
!

1/ A \$ # &  
! ' ! - , ' # &  
< 5 # ' ,  
! # , , .  
! !  
! A

11 ?  
\* 2 ' # ' # '  
there is reason to doubt a Judge's impar  
paragraph 2 that this "shall not be  
in the respective proceedings" is too abs  
of the possibility that a Judge may have  
# .  
& 7/ 1 !!

3! aragraph 2 by the insertion of  
"shall not" and "be a circumstance" in it

1:!  
6! # ' / ! ! ! ,  
' ! < ' # .  
' # & 7  
" + ' , # & 9  
' , ' & 9  
!

7!  
8! : @ ! 3 3  
benefit of the Accused where the viol  
lawful interests" would, e.g., have the  
" & !

9& . . . . .  
9 & # ' . . . . .  
" # . . . . . ! 4 #!  
! : ! ! ..  
.77 , " + ! !  
! # ! , , \$ . . . . .  
/ , ! ! , ' \$ . . . . .  
# 1 ! < \$ ' . . . . .  
\$ !  
!  
! !  
12 # # 5 . . . . .  
# # " " . . . . .  
\*! /!  
.74  
3! the evidence following "the \$ r in n#e r. belie  
" . . . . . 5  
& 6 7 !  
6! here is thus a need to delete the refer  
.71 ( \*  
7! /31a " f \$  
\$ & as a circumstance of exclusive av  
" ! 2'  
# & \$ \$ . \$  
8! !



..7 & \$ B & =

9! "whereabouts." i\* h sub .  
 ' # #

!

! , /;8< ! !

& # ,<sup>9</sup> & 37/ 1 +  
 ' # " 7 ' !  
 - , \$

! # #

# /31 , 5

relevant rights of an Accused i t e h a n a A t t o r  
 4 ' .

& # # 5

! , /;0< t o " i n v i t e  
 " !

! \* . . //64 ! ! ,  
 ' # ' .

" ' - # ' ' ' .  
 2 5 # : # # . . . .

& . . & . ! .

\*! 8  
 !!

3! . . . 3/ 1 #  
' . & , 2 5 # : # #  
# # !

6! !

!!

7! . . . 6/ 1 # .  
inform the person arrested of "his mini  
' ' ' !

8! , 4 ; . < ! !

9! # . 7 # . #  
' . # # ! 2  
' # . # .  
' ' !

! 1 !

... = 9 6 (

\* !  
..7

\* ! ..8 \* # ) &  
' # ' # F

' . 5 . ' #  
' ? ! ! ,

\* ! !

..0  
\*\*The stipulation in paragraph 5 that an ar  
arrested again on the basis of the same  
' !

\*3!  
' ! ' # ,

" . . . #  
! ,

\*6! ! 4 !!

..1 ( 6  
\*7! # " - ' #  
5 ' & 6/\*1  
!

\*8( , # #  
"the commission of a crime" and not the c  
\$ # ! 2 '  
/ 1 " #!

\*9! /\*1 "to ensure t  
# & #  
decision", which is quite different from  
# , \$ !  
& /\*1  
& 6/ 1/ 1  
" ,  
- ,  
!

\* !  
% #  
!/  
!

3 ! \* 5  
& \$  
! ! - , ' 5  
paragraph 1 of being "necessary" # ' paragraph  
' #  
!

3 !

' 8 ! !

..@ &

6

3 !

#

4

' # # # & 6/\*1

#

#

5

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3\*!

5

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#

33!

! ! !

...:

"

36!

\*

#

5 paragraph 1 that "the ground detention are present". However, there is

&

! 2

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37!

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! #

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6

38!

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2

4

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E ! 3

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39!

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&

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! " #  
.4. " ! A B + .48 ! +  
8 ! . & 8 6 /61 & 6\*  
/ " be sent "to" the official  
person being notified"  
! & ' ,  
" ' # #  
!

8 ! @ .4. , .;4<  
.48 !

.18 !  
8\*! # .  
a property claim fully or partially in t  
' ' " .  
\$ , ' ,  
' # & 7/ 1 ' .  
" # & 7! ' !

83! % ' !  
# !  
! !

.10 ! " 3  
86! \$ \$ . # .  
' #! 2  
for a Victim who is " # #  
' & , # # #  
reason" being provided with legal repr

87! ! !

\$ %

5. @  
88! . #

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<sup>74</sup> , !.!, - + , ! \* 9 @ \* , ( 9 % 8 , , !  
\*\*379@ \* , ) # , ! 37989@ 7, 3 ) \*!



5 ' . . . # , , !  
! \$ . . . # , , !

89!  
! % !

8 ! ' & - ' #,  
"The Accused cannot participate in the  
borders of the Republic of Armenia"  
# ' "cannot participate"  
# + !

9 ! , /;0<"  
"

9 ! :5 , + 4 .  
% & ' ' , # # 8  
, 2 ' # , # & #  
' ' ' # !

9 ! !  
/77 = \* 6  
9\*(! \$ . ( & , ; .  
% + # ' # ' !:  
5 ! # # ' !:  
# # ' !

93E , - # " - # #  
( ! , #  
( ! #  
# ( #

96! *preparation of an Accused's defence*  
6

6

/70 & # = 9 6

97&

4

"whether the guilt of the Accused<sup>d</sup> in comm  
formulation should not be used as it is f  
"there is sufficient evidenti  
&".

98!

&

/7: -

99!

's title' # #  
\$ . " ' , \* 3  
2 . # ,

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9 !

k - 2 4 / !

' 1

& 9 , #

2

/ 1

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/;\*

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/ . 7

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" " # 6 #  
, #, \$ ' #  
, , F !

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5 , # #  
\$ ! E , ' + !  
5 , # \$ 8 -  
# -  
!

3! ! !

./.

6  
6! ' # . 5 '  
& \* 6 ; F & 5  
\$ #  
' , # \$ , # , '  
# !

7B ' , 5 ' , ' ,  
# # ! ' 2  
' #  
' , # ,  
' # ! ,

8! # , ; F  
# . 5 present professional  
recommendations with regards to the investigative action performed with  
participation of a minor , # ' # # 2  
' , # , . #  
# ' ,  
5 , 5 !

9( , # . 5 #  
! 2 , 5 #  
' 5 , , .

!

12 ' . # . " . \* . . !  
' # ' # . # .  
# # .!  
! 8  
! / . 5 G A # , # .  
& 2 . # , # .  
# 5 ' # ' #  
' # ' #  
! # !  
\* 2 # , & 7 #  
5 5 # 5 #  
! #  
3! ! !  
6! // . G , & " ' # !  
" # d ' ! #  
! # #  
7! , # . , \$  
' a d e f e n d a n t ' s " . #  
!  
8! " # . ' # " 5 # 5 # ! #  
' # # , # ! #  
! 4

3 E ! 8 # &

9! ! # ! !

! ! - , ' # 9,

5 ' & 7/ 1 # - \$ !

! //4 % \$ ! & # \$ , , ' !

! , \$ . & , \$ 5 ' # \$ ! # + # \$ . # !

\*! !

//1 3! . 7 . # ' ! ! , . " visual observation ... for the purpose of the proceedings and finding traces of the \$ . , !

64 ' # \$ . ' & \*\* F & B \*3, \*7 \* ! " ' # \$ !

---

<sup>9</sup> 4 , & , .,2 # ! 3 Q D, ! 7877@ 6, 6 + ' & -C D!, ! 63@ , 6 +! ' 6

7B ' , & \*7 \* , #  
" ' \$ !( ' , ' & /\*1/ 1 #  
# ' 5 ' ' #  
! !

8! ! # 1  
! ! %

9! ' . & authorising the taking  
\$ relationship to the proceedings at hand"  
\$ . # 5 ' .  
# #'  
E, ! #  
& 7/ 1 !!

! !  
! !

//5  
12 # # " ' , #  
# # \$ . #  
' " ' . . !

! , 5 ' !  
! ' !

87  
\*! . # !

3! , 5 ' # .  
! !

---

4 , !(!,% ( % , no. 12315 / 04 , 20 April 2010 , in which  
: ! ; 5 ' ! \$ ' \$  
# # # : ! ;  
! , # # 5 ' # / 1

62

#

!

+

7(

' \$

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' \$

!

8B

5

+

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2

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9!

/8.

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/8/ "

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9

&

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\* 1!

guilt at both applicants and B. L. as the perp

\*\*B

5

7/ 1

\*3(!

\*6!

\*7!

objects "regardless of their connection t

\*8&

\*9&

\*!

3 ! 5

3 !

of the "objective reasons" in the manner

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\* 4 , !&!, 3 = 9 +C D, ! \*9 3@ \*, 3 4 !



/81 " 3 ! ' # \$ !  
' # \$ !  
' # \$ !  
3\*! ' !  
!

/8 @ & 5 / &  
33! ' . 5 , ' ' .  
' # " ' # 5 ' .  
' # # # /  
' # !- . , \* 1 ' ' .  
, # & \* .

36! ' !  
' \*  
' # !  
' ! \* !  
' ! ! !  
' ! ! !

/8 : & )  
37< ' # . ' F . , ' , -'  
' \*  
' # # . , ' ' .  
' # # # ' ' .  
' # . , # ' ' ,  
' # \* , # \*\* . ' ' ,  
' # " ' ' ' \*3!

---

\* 4 , !.!, % !\* 36@ \* , \* E , ' ! & \* = ! 76866 @ ,  
( # 9 % ! , ! 37379@ 7, + ' 9!  
\*\* 4 , !A!, = = - \$ , ! 83\*\*7@ , 7 8, ! 7  
2 % , ! 987@ & , ! \*3!  
\*3 4 , !&F H , & ! \* 368@ 8, \* ) # , ! 8 \* @ , \*  
4 ' 6 , ! \* 368@ 8, \* ) #

3 82 , ' & \$ ' # &  
# ' !  
/\* 1 / 1 # ' !

3 9 !

!  
/ 0 8 & ( 3  
3 ! . #  
" # ' # ' # ' !  
# ' !

6 ! , # \$ #  
& ! E !

6 & , \$  
\* 6 ! ( . , #  
#  
' her activities in "good faith"  
' !

6 ! % ! !  
% !

/ 0 4 3  
6 \* 2 ! 6 # 2  
2 , ! # ,  
5  
# !

6 3 ! !

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\* 6 . ' & . 3 ! \* \$ # 2 5 # : # !

6 62 /4. & % - =  
,5  
\$ . . #  
st i g a t i v e m e a s u r e s h o u l d b e b a s e d o n a " "  
" .  
# # #!

6 7 !

6 8 B # #  
& 7 / 1 %  
+ # # #  
# ! # #

6 9 !

6 2 /45  
\$ , # " ' # - ! ,  
\$ . , ' " #  
& ! , B # #  
5 !

7 !

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7 & 5 ' & 7 # #  
& 7 # #

! E , .

7 ( , # & ' . & #

!E " % + \* ,

Code does not seem to recognise that an i

' . # !

7\*! ' !

! !

73& #\*, & # \$

' ' - - .# #

' " +!

76! !

/ @ 0 9 !

( &

\* 77!

# ' ' ! ' # #

5 ' ' #

!

78& ' 5 # \$

,# ,# # ' /

' 1!

79! !

/ @ 1 &

7 ! ' , " # ,

' # ' ,

!&

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\*74 ! 76 !

8 ! , . # ' . ' " ' . ' ' \$ . ' , ' \$ . ' # . the Accused " .

8 ! 5 ' " could not \$ proceedings " ! 2 . ' \$ ! & ' ' , # \$ !

8 ! !! /

8\*! . 3 # 5 . # !

83! , # ' . . # 5 ' . ! 2 # 5 . # 5 ' # !

" discussion " envisaged did not allow subm 5

86! 0 !

87! / @ : ) &

# \* ' . ' . ' !

88& , ' \$ ' \$ ' . . # \$ ' " # .

89!

!

/5/ / " ?  
8 ! . & 5 ' !  
' 5 ' #  
& " !  
9 ! , # ' #  
' #  
' & # ! , 5 ' #  
' !  
9 !  
) \* + % +  
9 ! 0/& ? & 6  
' #  
' # 5  
' !  
9 \* !  
!  
/5@  
93! # 6 &  
' / 1 5  
& 6/\*1  
' !  
96! ' ! , /;/<  
!  
/5: " !  
&  
97! . 5 & +  
; %  
another measure "not later than seven day

988

. \$ .  
#( , ! & 96! / 1  
# 2  
,  
&  
+  
!

99!

.  
;  
" !  
!

9 &

- & - \* # & 6  
#  
, ' # & ' ' !  
' # ' !

*There is thus a need to add "or house ar*

877 ? , & ,  
! 5 ' , . .  
# . !

! ,  
\*9/ 1, ' ' !  
# # !

\*! ! !  
! , !  
8!5 ; .. <

87: " !  
3! & / !! , 1 . ' #  
' & / !! , 1 . ' #  
' #8!

---

\*8& \* 7!

6& . . . # . . . #  
# + . . . !  
, \$ ' & ' .  
, # , \$ # #  
, ' & 7/ 1

72 , , # .  
. . + # ' s i n t e n t i o n a l , n o n  
, . \$ \$ & . #  
!

8! " ' s a b s e n c e a n d f o r a l t e r n a t i v e l e  
" ' s a b s e n c e i s f o u n d n o t t o  
, - . /

8/1 - G  
9! # . \*  
5 . #  
# & 7 5 ,  
' ! 2

C o u r t ' s ! #  
!

8/: G 9 A A  
\* ! ' ' 5 . '  
# !

\* & \*7/ 1 ; F 5 , 5 .  
\$ . . ,  
, # . ''  
.!

\* ! ' 5 '  
- , 5 '  
# #  
' 5 # ' !



\* \*2 # , . # \*9 ' 5 # ., #  
' ' - # ' 5 #  
. !

\* 3! %  
./

887 ) !  
\* 6! # # # ' #  
! # ' & 7  
, #, # #  
" ' #, & ,  
. /\* 1/ 1 !

\* 72 ' # ! !,  
" ' # # . #,  
, / 1 , ' #,  
/ 1 ?  
' # / 1 ?  
!

\* 8! 5 # !&# ' ' ,  
' # 5 . .  
# # , . # 5  
! \$ ' # !  
# ' # !

\* 9!  
!  
!

888

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\*94 ! 9 !  
\* 4 ,2 # ! 3 Q D, ! 7877@ 6, 6 + &  
- C D, ! 63@ , 6 +! ' 6

\* ! # . " ' .  
" ' 5 . ' .  
" ' #  
t h e C o u r t ' s # !

\* !

\* B ' , . \* . # , . ' .  
# , " " ' . - ! , ' .  
" ' ' ' ! ' .

\* ! ' #

880 & = ! & #  
\* \* ! # . 3 . 5 \$ ' .  
' # ' # 5 ' .  
' # , # \$ ' .  
" m a y c a s t d o u b t o n t h e f a i r n e s s o f t h e p r

\* 3 ! ! !

88 @  
\* 6 ! . 6 ' . . ' .  
# " ' . . ! - ,  
' & # , \* 3 .  
' # \$ ' !

\* 7 ! ! #

808 \$ ' 5  
\* 8 ! # . 5  
' # ! 5

\* 9 !  
? 800 " ! 9 B B 80 @ 805?  
? B 80 : & ?





\*\*7!

! 9 ! ! !  
! !

\*\*8!

0.4 G 6  
, apart from the issue of the Accused  
# & /\* 1! & #

\*\*9!

0.@

\*\* The possibility envisaged in paragraph 3  
may negatively affect" a minor Accused, o  
! B  
+ &"  
!

\*3 %  
#  
+  
5

, ' \$  
+ # #  
& # 5  
!

\*3 !

8 0 !!

\*3 2

0/5 \$ 6  
? 6 !  
& \* 33  
! # & 7/  
!

\*3\*!

6 #  
*if provision is made for limiting full di*

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