

# CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF UZBEKISTAN

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#### **Article 1. The conduct of legal proceedings on criminal cases**

The conduct of legal proceedings on criminal cases within the territory of the Republic of Uzbekistan shall be regulated by the Code on Criminal Procedure.

The conduct of legal proceedings on criminal cases as established by the present Code shall be single and compulsory for all courts, prosecution, investigation and inquiry agencies, advocacy and nationals.

#### **Article 2. The objectives of the criminal procedure legislation**

Criminal procedure legislation shall pursue as its objectives a speedy and full ascertaining facts of the crimes, targeting guilty

persons and securing of proper application of law with the view that each person, who committed a crime, be imposed to a fair punishment and no innocent person be brought to liability and convicted.

The proper conduct of legal proceedings on criminal cases as established by the criminal procedure legislation shall promote an enhancement of the rule of law, crime prevention, protection of the interests of individual, state and society.

***Article 3. Applicability of the criminal procedure legislation in time and space***

Legal proceedings on criminal cases shall be conducted in accordance with the legislation, existing at the moment of conducting of the inquiry, pre-trial investigation and judicial proceedings on the case, irrespective of the place of the crime committed, unless it is established otherwise by the treaties and agreements concluded between the Republic of Uzbekistan and other States.

***Article 4. Applicability of criminal procedure legislation in respect of foreign nationals and stateless persons***

Legal proceedings on cases of the crimes committed by foreign nationals and stateless persons shall be conducted on the territory of the Republic of Uzbekistan in accordance with the present Code.

In respect of persons, who enjoy immunity, the present Code shall be applied to the extent that does not contradict to the international treaties and agreements, which are legally binding for the Republic of Uzbekistan.

***Article 5. Procedure of inter-action of the courts, procurators, investigators with the respective foreign institutions***

The procedure of inter-action of the courts, procurators, investigators with the respective institutions of foreign States on the matters related to extradition of the accused and enforcement of requests to undertake certain procedural actions, shall be determined by the legislation of the Republic of Uzbekistan, as well as by the treaties and agreements concluded between the Republic of Uzbekistan and other States.

***Article 6. Compliance with requests of foreign institutions to undertake procedural actions***

The courts and investigating agencies of the Republic of Uzbekistan shall comply with requests of foreign institutions to undertake certain judicial or investigating proceedings, such as interrogation of witnesses, accused, experts and other persons, as well as viewing, examining, searching, seizing and transferring of material evidence,

preparing and sending of relevant documents and others. Requests of the foreign institutions that have been sent directly to the court or investigating agencies shall be complied with only upon the approval of, respectively, the Ministry of Justice of the Republic of Uzbekistan or the Republican Procurator's Office of Uzbekistan. Compliance with requests of the foreign institutions within the territory of the Republic of Uzbekistan shall be governed by the rules envisaged in the article 3 of the present Code.

If a request of the foreign institution can not be complied with, the documents, which have been received, shall be sent back via the Ministry of Justice of the Republic of Uzbekistan or the Republican Procurator's Office of Uzbekistan, along with the reasons that prevented compliance with the request, to the institution which sent it.

The Supreme Court of the Republic of Uzbekistan shall inter-act directly with the relevant foreign institutions on the above matters.

#### ***Article 7. Request to initiate criminal case***

Request of foreign institution to initiate criminal case against a national of the Republic of Uzbekistan, who has committed a crime on the territory of other State and has returned to the Republic of Uzbekistan, shall be considered by the Republican Procurator's Office of Uzbekistan by looking into the grounds for such request to initiate criminal case. The results of consideration of the request shall be communicated to the institution, which sent the request. If the person, who was indicated in the request, was subjected to investigation and the judgment was already delivered, then the respective foreign institution shall be informed about the judgment and the certified copy shall be sent to it upon the judgment comes into legal force.

With regard to a citizen of a foreign country, who had committed crime within the territory of the Republic of Uzbekistan and who left the Republic, all materials, collected by inquiry and investigating agencies, shall be submitted to the Republican Procurator's Office of Uzbekistan, that shall consider a possibility to send to the appropriate institutions of a foreign state the requests to initiate the case against that person.

#### ***Article 8. Request to a foreign State to extradite a person***

In cases and in accordance with the procedure provided by the international treaties and agreements of the Republic of Uzbekistan, the Republican Procurator's Office of Uzbekistan shall make a request to the appropriate institutions of a foreign State to extradite a person, who has committed a crime on the territory of the Republic of Uzbekistan, if a criminal case has been initiated or he was convicted.

A request to extradite shall contain, as a rule:

- 1) The name and surname, date of birth, information on nationality, description of appearance and photo of the accused(convicted) person;
- 2) A description of the established circumstances of the crime committed along with the text of the law that provides liability for such crime, and an indication of the punishment that can be imposed;
- 3) Information on the place and time of delivery of the court's judgment, as well as on its legal force status.

A request to extradite a person shall be accompanied by a copy of the judgment or the resolution on recognizing a person as an accused in the criminal case.

***Article 9. Limitation on the liability of the extradited person***

The person, who was extradited to the Republic of Uzbekistan by the foreign State, can not be brought to a criminal liability, imposed with punishment, as well as extradited to a third State for a crime committed before extradition and for which he/she was not extradited, without consent of the State, which extradited him/her.

***Article 10. Refusal to extradite a person to another State***

A person shall not be extradited to other State, if:

- 1) the person whose extradition is requested is a national of the Republic of Uzbekistan, unless the contrary is provided by the international treaties and agreements between the Republic of Uzbekistan and the other States;
- 2) the crime has been committed at the territory of the Republic of Uzbekistan;
- 3) the judgment on a person has been passed and came into legal force on the charges which laid in the basis of the extradition request, or the resolution has been passed on closing the criminal case on the same charges;
- 4) the case can not be initiated or the judgment can not be enforced in accordance with the legislation of the Republic of Uzbekistan on the ground that statute of limitation applies or on any other lawful ground;
- 5) the behavior, which served as a ground of the request for extradition, does not constitute a crime under the legislation of the Republic of Uzbekistan.

**Chapter 2. Principles of the criminal procedure**

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### ***Article 11. Lawfulness***

The judge, procurator, investigator, inquiry officer, defense council, and other persons participating in the criminal proceedings, shall strictly observe and follow the requirements of the Constitution of the Republic of Uzbekistan, of the present Code and other legislative acts of the Republic of Uzbekistan.

A failure of strict observance and enforcement of laws, irrespectively the reasons it invokes, shall be considered as a violation of the lawfulness of criminal procedure and entails set forth liability.

### ***Article 12. Conduct of trial only by the court***

In accordance with the Constitution of the Republic of Uzbekistan the trial on criminal cases shall be conducted only by court.

### ***Article 13. Panel and individual consideration of the criminal cases***

The criminal cases shall be considered by the panel of judges, whereas the criminal cases, which are stipulated by article 15 paragraphs two and three of the Criminal Code, shall be considered by a judge individually.

In the event of the first instance court consideration of the case by panel of judges the composition of the panel shall be a judge and two people's assessors. The Supreme Court of the Republic of Uzbekistan shall consider the cases as the first instance court in composition of three professional judges.

During the trial the people's assessors shall be entitled to the same rights as the judge. They have equal rights with the presiding judge at the trial in determination of any matters that may arise during the hearing of the case and rendering the judgment.

The consideration of the cases by the appellate chambers, cassation chambers and supervision chambers shall be conducted in composition of three judges. The appellate and cassation complaints (protests) on the judgments, rendered by the Supreme Court of the Republic of Uzbekistan shall be considered by the relevant respective chambers of the Supreme Court of the Republic of Uzbekistan in composition of five judges. *(Amended by the para.1 of section I of the Law #163-II, 14.12.2000)*

Presidium of the court shall consider the cases upon the presence of the majority of its members.

The Plenum of the Supreme Court of the Republic of Uzbekistan shall consider the cases upon the presence of two thirds of its members.

***Article 14. Independence of the judges and their accountability only to the law***

During the trial, the judges and the people's assessors are independent and accountable only to the law. Judges and people's assessors consider criminal cases and make their determination on the basis of law.

Any interference with activity of the judges and people's assessors is prohibited and shall entail liability in accordance with law.

***Article 15. Responsibility to initiate a criminal case***

In each case of discovery of the elements of a crime the court, procurator, investigator and inquiry officer are obliged to initiate, within the limits of their competence, a criminal case, as well as to take all measures required by the law for the establishment of the circumstances of the crime, persons who are guilty of the committing a crime, and for their punishment.

***Article 16. Conducting of trial on the basis of equality of citizens before the law and the court***

Trials on criminal cases shall be conducted on the basis of equality of citizens before the law and the court, notwithstanding their age, race, nationality, language, religion, social origin, and belief, personal and social position.

***Article 17. Respect of the person's honor and dignity***

The judge, procurator, investigator and inquiry officer shall respect honor and dignity of the persons, who participate in the case.

No one shall be subjected to torture, violence, and other cruel or degrading treatment.

It is prohibited to behave or render decisions, which are degrading, lead to the disclosure of information on the circumstances of personal life, and create a threat to health of individual, as well as cause unreasonable physical or moral suffering.

#### ***Article 18. Protection of the rights and freedoms of citizens***

All state agencies and officials, who are responsible for conduct of legal proceedings on criminal cases, shall protect the rights and freedoms of citizens, participating at the criminal proceedings.

No one can be subjected to placing or holding into custody unless under a court's decision or a warrant of the procurator.

The court and the procurator shall immediately release everyone who has been unlawfully deprived of his liberty or held in custody longer than it is stipulated in the law or in the court's sentence.

A personal life of citizens, security of their homes, privacy of correspondence, telegraph messages and telephone conversations shall be protected by law.

Search, seizure, view of home or other premises and territories, belong to a person, arrest of the postal and telegraph correspondence and its seizure from the postal offices, tapping of telephones and of the other communication equipment, can be carried out only and in accordance with the procedure established by the present Code.

Damages that have been caused to a person as a result of the violation of his rights and freedoms during the conduct of legal proceedings shall be remedied on the grounds and in accordance with the procedure established by the present Code.

#### ***Article 19. Open hearing of the criminal cases in the courts***

The hearing of the criminal cases shall be open in all courts, unless it is contrary to the interests of protection of state secrets, as well as when the hearing involves cases of sexual offences.

The closed hearing of the cases is also permitted by the ruling of the court on cases concerning offences committed by persons under the age of 18, as well as on other cases, in order to prevent disclosure of information on private life of the citizens or degrading information, as well as to ensure security of the victim, witness or other persons participating at the case, as well as members of their family or close relatives.

Private postal correspondence and private phone messages can be disclosed during the open court hearing only upon the consent of persons, who has sent and received these letters and messages. Otherwise they shall be disclosed and studied in the closed court hearing.

During the closed court hearing of the case all procedural rules shall be respected. The court shall issue a ruling to conduct hearing of the whole case or its parts in closed session. This ruling shall concern the public only and it shall not be applied to the participants of the legal proceedings.

The court may allow the close relatives of the defendant and victim, as well as the other persons to be present at the closed sessions, though it shall warn them about liability for disclosure of information on circumstances, which are being studied during these sessions.

The court may prohibit to certain persons to be present at the open court hearing, if it is necessary to maintain order in the courtroom.

Audio, video and cinema recording, taking of pictures in the courtroom shall be allowed only with the permission of the presiding judge.

In any case, the judgments, rulings and resolutions of the court shall be announced publicly.

For the purpose of promoting of the publicity of the court's activity, the courts can, if it is necessary, provide the representatives of the mass media, relevant public organization and collectives with the information on the upcoming hearings, as well to conduct these hearings directly at the premises of enterprises, institutions and organizations.

***Article 20. The language of conduct of legal proceedings on criminal case***

The legal proceedings on criminal case shall be conducted in Uzbek, Karakalpak languages or in language of the majority of the population of the given area.

The participants at the legal proceedings, who does not speak or insufficiently speaks the language, in which the proceedings are conducted, shall be entitled to make oral or written statements, testimonies and explanations, petitions and complaints, as well as to speak up at the hearings in their mother language or in other language, which they speak. In such cases, as well as during the study of the materials of the case the participants of proceedings shall, as it is established by law, be entitled to the assistance of interpreter.

Pre-trial investigation and court hearing documents, which are to be provided to the accused, defendant or other participants at the legal proceedings, shall be translated into their mother language or other language, which they understand.

***Article 21. Participation of public in legal proceedings on criminal cases***

During pre-trial investigation and judicial hearing of the criminal cases the inquiry officer, investigator, procurator and the court are entitled, within their competence, to use assistance of public in order



to establish the circumstances of the crime, to seek and find guilty persons, to render a fair judgment, and to identify the causes of the crime and conditions that promoted its commission.

The representatives of the public organizations and collectives have a right to participate in the legal proceedings on criminal cases as civic accusers and civic defenders.

### ***Article 22. Ascertaining the truth***

The inquiry officer, investigator, procurator and the court shall ascertain whether the event of crime took place, the guilty in committing it, as well as all other related circumstances.

Only that information, which has been obtained, checked and assessed in accordance with the procedure established by the present Code, can be used for the purpose of ascertaining the truth of the case. It is prohibited to obtain statements from the suspect, accused, defendant, victim, witness and other participants of the case by means of violence, threats, abuse of their rights and other illegal measures.

All circumstances of the case, which are to be proved, shall be thoroughly, comprehensively, fully and objectively studied. In rendering a ruling on any question, which may arise during the course of investigation and hearing of the case, the incriminatory and exculpatory, as well as mitigating and aggravating circumstances concerning the accused or defendant shall be taken into account.

### ***Article 23. Presumption of innocence***

The suspect, accused or defendant shall be considered innocent unless his guilt of committing a crime is proved in accordance with the procedure established by law and is established by the court judgment, which came into legal force.

The suspect, accused or defendant is not obliged to prove his innocence.

Any doubt about guilt, if the possibilities to eliminate them were exhausted, shall be counted in favor of the suspect, accused or defendant. Any doubts, which also arise in the course of application of law, shall also be counted in favor of the suspect, accused or defendant.

### ***Article 24. Provision to the suspect, accused and defendant of the right to defense***

Suspect, accused and defendant is entitled to the right to defense.

The right to defense shall be provided as the duty of the inquiry officer, investigator, procurator, court to explain to the suspect, accused and defendant of his rights and to take measures to ensure that he has a real opportunity to use all means and ways provided by law to defend himself of the charge.

**Article 25. Adversarial proceedings at the court**

The proceedings at the court of first instance and at the higher courts shall be adversarial.

During the course of proceedings at the court the functions of prosecution, defense and determination of the case shall be separated from each other, and shall not be carried out by one agency or one official.

Legal proceedings at the court of first instance can begin only upon the submission of the indictment or the resolution on sending the case to the court for the application of compulsory measures of medical treatment.

The state and public procurators, defendant, legal representative of the minor defendant, defense council, civic defender, as well as the victim, civil plaintiff, civil defendant and their representatives, shall participate at the court proceedings as the parties and shall enjoy the equal rights to produce evidences, participate in their examination, make petitions, express their opinion on any matter, which is important for the proper determination of the case.

The court shall take part of the prosecution or the defense, and shall not express any interests of these parties. (*amended by the para.2 section I of the Law #163-II, 14.12.2000*)

The court, being objective and impartial, shall provide necessary conditions to the parties to fulfill their procedural duties and enjoy their rights. (*amended by the para.2 section I of the Law #163-II, 14.12.2000*)

**Article 26. Direct and oral examination of evidences**

During the conduct of legal proceedings on criminal case, the inquiry officer, investigator, procurator and court shall directly examine evidences as follows: to question the suspects, accused, defendants, victims and witnesses, to study the conclusions of the experts, to view physical evidence, announce the protocols and other documents. This rule can be exempted only in the exceptional circumstances, which are prescribed by the present Code.

The court shall base its judgment only on evidence, which was examined during the course of court proceedings.

**Article 27. Right to complain on the procedural actions and decisions**

Participants of criminal procedure and other persons, as well as representatives of the enterprises, institutions and organizations, who is interested in legal proceedings on criminal case, have a right to complain, in accordance with the procedure and terms stipulated by the

present Code, on the procedural action or decision of the inquiry officer, investigator, procurator, judge and court.

The convicted or acquitted person, his defense council, legal representative, as well as the victim, civil plaintiff, civil defendant, their legal representatives have a right to complain, whereas the procurator have a right to protest, on the judgment (ruling) of the court of first instance to the appellate or cassation chambers. *(amended by the para.3 section I of the Law #163-II, 14.12.2000)*

Submission of petitions and complaints are allowed at any stage of the procedure. *(amended by the para.3 section I of the Law #163-II, 14.12.2000)*

## **SECTION TWO. PARTICIPANTS OF THE CRIMINAL PROCEDURE**

### **Chapter 3. State agencies and officials responsible for the conduct of legal proceedings on a criminal case**

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Article 38. Inquiry agencies

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#### **Article 28. Court**

*(amended by the para.4 section I of the Law #163-II, 14.12.2000)*

Trial on criminal cases in the Republic of Uzbekistan shall be conducted by:

the Supreme Court of the Republic of Uzbekistan, the Supreme Court of the Republic of Karakalpakstan on Criminal Cases, the regional, Tashkent city, district (city) court on criminal cases and military courts.

The court of first instance is entitled to render a judgment or a ruling on a criminal case. The court of appeal instance considers the cases upon complaints and protests on judgments and rulings of the court of first instance, which has not entered into legal force, and renders

rulings. The court of cassation instance considers the cases upon complaints and protests on judgments and rulings of the court of first instance, which has entered into legal force, and renders rulings. The court of supervision instance considers the cases upon the protests on judgments and rulings of the court of first instance after their consideration at the appeal and cassation chambers, and renders resolutions (rulings).

***Article 29. Competence of the court***

The court has the following authority: to prepare the case for trial hearing; to consider the case and render judgment or take another ruling; to consider the case at the appellate, cassation and supervision chambers; to require enforcement of the judgment. (*amended by the para.5 section I of the Law #163-II, 14.12.2000*)

In addition, the higher courts, within their competence, supervise the judicial activity of the lower courts.

***Article 30. Judge and people's assessors***

The consideration of criminal cases shall be attended by the judge and people's assessors, who has been appointed or elected to the composition of the given court.

***Article 31. Competence of the judge***

The judge, acting individually or in the panel of the court, shall have authority, which is envisaged by article 29 of the present Code. Besides, the judge shall perform such acts, which are related to the preparation of the case for the court hearing, and preside at the court hearing, as well as enjoy other rights and duties, which are provided by the present Code.

***Article 32. Secretary of the court hearing***

Upon the request of the presiding judge, the secretary of the court hearing shall prepare a criminal case for the consideration at court hearing; notify the participants of the criminal procedure about the time and place of the court hearing; check the appearance of the summoned participants of the proceedings at the court, learn the reasons of non-appearance and report about them to the court; keep the protocol of the court hearing; fulfill other tasks of the presiding judge, which are related to the preparation and conduct of the court hearing.

The secretary shall thoroughly and properly reflect in the protocol the actions and rulings of the court, as well as the actions, statements, petitions, testimonies of all the participants of the court hearing.

**Article 33. Procurator**

The supervision over precise and uniform application of the laws of the Republic of Uzbekistan during the course of inquiry and preliminary investigation shall be performed by the General Procurator of the Republic of Uzbekistan and his subordinate procurators.

During the course of inquiry and preliminary investigation, the procurator shall in time take measures, which are provided by law, to remedy violations of law, notwithstanding the cause of these violations.

The procurator shall perform his authority independently from any agency and official, and be accountable only to the law, as well as be guided by the directives of the General Procurator of the Republic of Uzbekistan.

**Article 34. Competence of the procurator**

During the course of inquiry and pre-trial investigation, the procurator shall have authority, which is provided by articles 243, 382-388, 558 of the present Code.

During his participation at the court hearing the procurator shall have authority, which is provided by article 409 of the present Code.

**Article 35. Investigator**

Pre-trial investigation on criminal cases is conducted by the investigators of the procurator's office, agencies of the internal affairs and of the national security service.

**Article 36. Competence of the investigator**

The investigator shall have the following competence: to initiate and terminate the criminal case, refuse its initiation; arrest and question persons, who are suspected in the committing of crimes; conduct investigative action, which are prescribed by the present Code; to render rulings on recognition a person as an accused in a criminal case and on imposition of the measure of constrain to this person; give written orders, relating to the cases within his jurisdiction, to the inquiry agencies to ascertain whereabouts of the suspects or accused and conduct investigative actions; to require from the inquiry agencies assistance in conducting of certain investigative actions.

All rulings concerning the manner of the investigation and conduct of investigative actions shall be rendered by the investigator independently, except when law prescribes for the sanction to be obtained from the procurator.

In case of investigator's disagreement with the orders of the procurator concerning recognition a person as an accused in the case, classification of the crime committed and counts of the accusation,

selection of detention as a constraint measure, submission of the case to the court or termination of the case, the investigator is entitled to present case to the higher procurator along with the written explanation of his objections. In this situation the higher procurator issues a resolution either on quashing of the orders of the lower procurator, or on transmitting of investigation of the case to another investigator.

Written orders and resolutions of the investigator, which are issued in accordance with the law and related to the cases within his jurisdiction, are compulsory for all enterprises, institutions and organizations, officials and citizens.

***Article 37. Competence of the head of the investigation directorate, department, section, group, and of his deputy***

The head of the investigation directorate, department, section, group and his deputy fulfill, within his competence, control over timely conduct of the investigators' actions on the assertion of all circumstances and prevention of crimes, as well as take measures for the comprehensive, thorough and objective conduct of pre-trial investigation of criminal cases.

The head of the investigation directorate, department, section, group and his deputy have the right to examine the cases, to give to the investigator orders relating to the conduct of pre-trial investigation, recognition of a person as accused in the case, classification of the crime and counts of accusations, manner of dealing with the case, undertaking of certain investigative actions, transfer the case from one investigator to another, assignment of the case to one or group of investigators, as well as to participate at the conduct of the pretrial investigation and to conduct pre-trial investigation personally, bearing the competence of the investigator.

The orders of the head of the investigation directorate, department, section, group and his deputy, relating to the case, shall be given to the investigator in written form and are compulsory for execution.

Complaint about orders to the procurator does not postpone their execution, except situations, provided by article 36, paragraph 3, of the present Code.

***Article 38. Inquiry agencies***

The inquiry agencies are as follows:

- 1) Militia;
- 2) The commanders of the military units, formations, chiefs of the military institutions and educational establishments - on cases involving crimes committed by their subordinates servicemen, as well as by persons eligible for compulsory military service during their assembly; on cases involving crimes committed by the personnel of the Military Forces of the Republic of Uzbekistan during execution

- of their official functions or at the place of the unit, formation, institution or educational establishment;
- 3) Agencies of the national security service - on cases referred by the law to their jurisdiction;
  - 4) Heads of the agencies of the penalty enforcement system of the Ministry of Interior of the Republic of Uzbekistan, the heads the institutions on the enforcement of the penalties in the form of arrest, of the colonies on execution of penalties, of the correctional colonies, investigative isolators and prisons - on case involving crimes against established order of service, crimes committed by the personnel of these institutions, as well as on case involving other crimes committed at these institutions. (amended by the Law #357-I, 27.12.96)
  - 5) State agencies of the fire control - on cases involving fires and violation of the fire prevention rules;
  - 6) Border guard agencies - on cases involving the breach of the state border;
  - 7) Captains of vessels while in long-distance voyages;
  - 8) Agencies of the state tax and customs services - on cases involving, accordingly, violation of tax and customs legislation.

***Article 39. Competence of the head of the inquiry agency and of the inquiry officer***

The heads of each agency enlisted in article 38 of the present Code, by acting as a head of the inquiry agency, has a right to initiate criminal case, to undertake conduct proceedings on it and to undertake inquiry or to order his subordinate officer to conduct inquiry, or to refuse the initiation of the case and transfer the application/notification to the agency, which has jurisdiction over the investigation of the case.

The inquiry officer, while acting under the order and supervision of the head of the inquiry agency, shall undertake all urgent investigative actions on the case, necessary to reach the objectives, provided by article 339 of the present Code.

The inquiry officer also has the duty to fulfill the assignments of the investigator on the conduct of certain investigating and ascertaining of whereabouts actions on the case, which is under his conduct, and to assist the investigator in his conduct of investigative actions.

While conducting inquiry, as well as fulfilling assignments of the investigator, the inquiry officer conducts investigative actions and renders rulings in accordance with the rules established for the conducting of the pre-trial investigation. The head of the inquiry agency shall follow the same rules if he acts as an inquiry officer.

The resolutions of the inquiry officer shall be approved by the head of the inquiry agency. The written orders of the head of the inquiry

agency are binding for the inquiry officer, who is entitled to challenge them to the procurator without postponement of their fulfillment.

The written directives of the procurator shall be binding on the chief of the inquiry agency and the inquiry officer. In situations of disagreement with the directives of the procurator the chief of the inquiry agency and the inquiry officer may appeal these directives without terminating their execution.

**Chapter 4. Public organizations, collectives and their representatives, participating in the legal proceedings on criminal case**

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**Article 40. Statements and petitions of civic organizations and collectives, which shall be taken to consideration during the course of criminal process**

Civic organizations and collectives, their administrative organs and representatives can inform the inquiry agency, investigator, procurator and court about a committed crime or its preparation. They have a right to submit petitions about: election the guarantee of the civic organization or collective as the restraint measure for the accused or defendant; conditional release of the convicted person or replacement of the penalty by a lighter one; alteration of the conditions of serving by a person the deprivation of liberty sentence; expunging of record of conviction; and other issues as it is prescribed by the present Code.

**Article 41. Informing civic organizations and collectives about crime**

With regard to the cases of grave and especially grave crimes, the inquiry officer and the investigator shall inform the collectives at the place of citizen's employment, study or residence about recognizing him as an accused, whereas the court shall inform them about the time and the place of the court hearing.

**Article 42. Civic accusers and civic defenders**



Civic organizations and collectives may assign their representatives to participate at the court hearing as the civic accusers or civic defenders.

Civic accusers and civic defenders shall be elected by the assembly of the civic organization or collective of the enterprise, institution, organization. The rulings of the assembly shall be presented to the court.

Civic organization, collective is entitled to withdraw, at any moment, the assigned civic accuser or civic defender, or to substitute him with another representative.

**Article 43. Rights and obligations of the civic accuser**

While attending the court hearing, the civic accuser is entitled to: study the materials of the case; produce evidence and participate in its examination; to make petitions and take a floor during the final debates between parties to express his opinion to the court about the probative force the accusation. The civic accuser has a right to withhold of accusation.

Civic accuser is obliged to: participate at the court hearing; inform the court about the opinion of the civic organization or collective and assist in ascertaining of the circumstances of the case.

**Article 44. Rights and obligations of the civic defender**

While attending the court hearing, the civic defender is entitled to: study the materials of the case; produce evidence and participate in its examination; make petitions; take a floor during the final debates between parties to express his opinion to the court about the circumstances exculpating the defendant or mitigating his liability.

The civic defender is obliged to: participate at the court hearing; inform the court about the opinion of the civic organization or collective and assist in ascertaining of the circumstances of the case that ease the situation of the defendant.

**Chapter 5. Persons standing their own interests,  
defense councils and representatives**

Article 45. Accused

Article 46. Rights and obligations of the accused

Article 47. Suspect

Article 48. Rights and obligations of the suspect

Article 49. Defense council

Article 50. Taking up of the defense council

Article 51. Mandatory participation of the defense council

Article 52. Refusal from the defense council

Article 53. Rights and obligations of the defense council

Article 54. Victim

Article 55. Rights and obligations of the victim

Article 56. Civil plaintiff

Article 57. Civil defendant

Article 58. Rights and obligations of the civil plaintiff

Article 59. Rights and obligations of the civil defendant

Article 60. Lawful representatives of the suspect, accused, defendant, the victim

Article 61. Rights and obligations of the lawful representative

Article 62. Representatives of the victim, the civil plaintiff, the civil defendants

Article 63. Rights and obligations of the representative

Article 64. Obligation to explain to the participants of the legal proceedings their rights and to ensure the enjoyment of these rights

#### **Article 45. Accused**

The accused is a person, with regard to whom a resolution on recognition him as an accused in the case was rendered in accordance with the procedure prescribed by the present Code.

The accused shall be called the defendant at the court hearing, whereas after passing a judgment he shall be called the convicted or the acquitted [person].

#### **Article 46. Rights and obligations of the accused**

The accused is entitled to: know the charge against him; give testimony and explanations on the charge against him and on any other circumstances of the case; use his mother language and the services of the interpreter; have a defense council and meet him confidentially; enjoy the right to defend himself; make petitions and challenges; produce evidences; upon the permission of the investigator or the inquiry officer participate in investigative actions; upon the end of pre-trial investigation study all materials of the case and write out any necessary information; object termination of the case by the investigator or the procurator and demand court hearing; participate at the proceedings of the court of the first and appellate instances, and, whereas the court allows, participate at the proceedings of the cassation and supervisory instances; complain about actions and rulings of the inquiry officer, investigator, procurator and court; study the protocol of the court hearing and comment on it; know about any protest, appellate and cassation complaints, which are brought on the case, and challenge them. The accused has a right to have the last word. (*amended by the para.6 section I of the Law #163-II, 14.12.2000*)

The accused is obliged: to appear upon the summons of the inquiry officer, investigator, procurator and court; not to decline from participation at the pre-trial investigation and court hearing; not to

impede ascertaining of the truth on the case by destruction, falsification of evidences, by intimidating of witnesses and by other unlawful acts; to follow the requirements, which are prescribed by the conditions of the elected measure of restraint; not to impede enforcement of the resolutions of the inquiry officer, the investigator, the procurator and of the order of the court on the medical examination, taking of samples for the expert examination, placement into the medical institution for the medical checkup, and of the other procedural rulings envisaged by the present Code; to follow the procedure during the investigation of the case and the court hearing.

The accused cannot be imposed a burden to give testimony, as well as to prove his innocence or any other circumstance of the case.

#### ***Article 47. Suspect***

The suspect is a person, with regard to whom the case file has information that he has committed a crime, but which is not enough to recognize him as an accused. The inquiry officer, the investigator or the procurator shall issue a resolution on the recognition of the person as a suspect.

#### ***Article 48. Rights and obligations of the suspect***

The suspect is entitled to: know what he is suspected of; demand interrogation not later than 24 hours after his arrest; testify about suspicion against him and about any other circumstances of the case; use his mother language and assistance of the interpreter; have a defense council from the moment of announcement to him of the resolution on the recognition him as a suspect or from the moment of his arrest, and meet him confidentially; enjoy the right to defend himself; make petitions and challenges; produce evidence; participate in the investigative actions upon the permission of the inquiry officer or the investigator; to complain about the actions and rulings of the inquiry officer, investigator, procurator and court. (*amended by the para.1 section VIII of the Law #772-I, 15.04.1999*)

The suspect is obliged: to appear upon the summons of the inquiry officer, the investigator and the procurator; not to decline from the participation of the inquiry and pre-trial investigation; not to impede the ascertaining of the truth on the case by destruction, falsification of the evidences, by intimidation of the witnesses and by other unlawful acts; not to impede enforcement of the resolutions of the inquiry officer, the investigator, the procurator on the medical examination, taking of samples for the expert examination, placement into the medical institution for the medical checkup, and of the other procedural rulings envisaged by the present Code; to follow the procedure during the investigation of the case.

**Article 49. Defense council**

The defense council is a person authorized in accordance with the procedure established by law to undertake the defense of the rights and lawful interests of the suspects, accused, defendants, and to provide required legal assistance.

The following persons may participate in the case as the defense councils: lawyers; persons possessing a special permit to participate as the defense councils; the representatives of the public organizations in cases involving the members of these organizations. The close relatives or the lawful representatives of the suspect, the accused, the defendant, and other persons may be allowed to participate as defense councils under the resolution of the investigator or under the ruling of the court. *(amended by the Law #485-I, 30.08.1997)*

The defense council shall have an access to participate in the case from the moment of bringing the charge against a citizen or from the moment of announcement of the resolution on recognition him as a suspect, or from the moment of his detention. *(amended by the para.2 section VIII of the Law #772-I, 15.04.1999)*

**Article 50. Choice of the defense council**

The defense council shall be chosen by the suspect, the accused, the defendant, their lawful representatives, as well as by other persons upon the request or the consent of the suspect, accused, defendant.

Upon the request of the suspect, the accused or the defendant, the participation of the defense council in the case shall be provided by the inquiry officer, investigator, procurator or the court.

In the event that a chosen defense council is unable to participate in the case within the 24 hours, the inquiry officer, investigator, procurator or the court shall offer the suspect, the accused, the defendant or their relatives to refer to the advocates' bureau, collegian or the firm with a request to appoint the defense council. The defense council, who has been chosen by the suspect, accused, defendant is entitled to participate in the case at any time. *(amended by the Law #485-I, 30.08.1997)*

The inquiry officer, investigator, procurator or the court, who conducts the proceedings over the case, can relieve the suspect, the accused, the defendant from payment, in full or in part, of the legal assistance costs. In such cases the costs of the lawyer's work shall be met by the State, as it is prescribed by the Cabinet of Ministers of Uzbekistan.

**Article 51. Mandatory participation of the defense council**

The participation of the defense council is mandatory in the cases, which involve:

- 1) minors;
- 2) dumb, deaf, blind and other persons, who have difficulties with the realization of the right to defense because of their physical or mental disabilities;
- 3) persons, who do not speak language of the legal proceedings;
- 4) persons, who are suspected or charged of the crimes for which death penalty can be imposed as a punishment;
- 5) persons with contradicting interests, if one of them has a defense council;
- 6) participation of the state or civic accuser;
- 7) participation of the lawyer as a representative of the victim;
- 8) measures of compulsory medical treatment.

The inquiry officer, investigator, procurator and the court can ascertain necessity of participation of the defense council in other cases, if it is clear that the complexity of the case and other circumstances can impede the right to defense of the suspect, accused or defendant.

If, in cases provided by the present article, the defense council has not been chosen by the suspect, accused or defendant, or upon their request or their consent by other persons, the head of the advocates' bureau, collegian or the firm shall, upon the requirement of the inquiry officer, investigator, procurator or the court, appoint the defense council to participate in the inquiry, pre-trial investigation or in the court hearing of the case. (*amended by the Law #485-I, 30.08.1997*)

#### ***Article 52. Waiver of the right to have a defense council***

The suspect, accused or defendant can waive his right to have a defense council at any stage of the legal proceedings. Such waiver shall be permissible only upon the initiative of the suspect, accused or defendant, and only if the defense council has a real possibility to participate in the case, which is provided by the inquiry officer, the investigator or the court by means of the inviting a lawyer, who shall confirm the waiver of the right to have a defense council. The latter shall be written in the protocol, which shall be signed by the suspect, the accused, the defendant as well as the lawyer, the inquiry officer or the investigator, or shall be included into the protocol of the court session.

Waiver of the right to have a defense council in cases provided by article 51, paragraph 1 subparagraphs 1, 4 and 8, of the present Code shall not be compulsory for the inquiry officer, investigator, procurator and the court.

Waiver of the right to have a defense council does not deprive the suspect, accused or defendant from the right to make a petition claiming the further participation of the defense council in the legal proceedings. Such a petition shall be satisfied in any cases. The petition concerning participation of defense council, which has been made

during course of the court hearing, shall be considered by the court, which takes into account circumstances of the case and requirement to ensure the right to defense. The beginning of participation of the defense council during the course of the court session does not constitute a ground for the restart of the court hearing.

***Article 53. Rights and obligations of the defense council***

The defense council has a right: to know of what the person, whose interests he defends, is suspected or charged with; to obtain from the agencies of the inquiry, pre-trial investigation and the court a written confirmation of access to participate in the case; to participate in the interrogations of the suspect, to be present during announcement of charges against him and to participate in the interrogations of the accused, as well as in other investigating actions involving them, and to question the suspect, accused, defendant, witnesses, experts, specialists; to participate upon the permission of the inquiry officer or the investigator in other investigating actions; to submit written disagreements about the conduct of the investigating action, which he participated in; to make petitions and challenges; to produce evidences; to request the state agencies, self-governing bodies of the citizens, enterprises, institutions and organizations to issue references, characteristics and other documents required for defense; to study the documents of the procedural actions that have been conducted with participation of the suspect or the accused, and, at the end of the pre-trial investigation, with all the materials of the criminal case and to write out necessary information; to study under the procedure established by law the information, which constitutes the state, commercial and other secrets, if it is required to conduct defense; to participate as a party in court hearing of the case; to submit complaints about the actions and rulings of the inquiry officer, investigator, procurator and the court; to study the protocol of the court session and to propose corrections on it; to know about complaints and protests brought on the case, and to submit counter objections; to participate at the sessions of the court of the appeal, cassational and supervisory instances. (*amended by the para.3 section VIII of the Law #772-I, 15.04.1999 and by the para.7 section I of the Law #163-II, 14.12.2000*)

If an accused or a defendant is kept in custody, the defense council has a right to have confidential meetings with him without limitation of their number and duration.

The defense council shall not disclose information, which became known to him as a result of conducting defense.

The defense council is obliged: to use all means and methods provided by law for the ascertaining of the circumstance refuting suspicion or the charges or mitigating the liability, and to render to the suspect, accused and defendant necessary legal assistance; not to impede the ascertaining of the truth by means of destruction,

falsification of evidences, by persuasion of witnesses and by other unlawful actions; to follow the procedure during the course of the investigation and the court hearing of the case.

From the moment of concluding an agreement on the participation in the case or from the moment of appointment, the lawyer may not refuse to fulfill the obligations of the defense council.

***Article 54. Victim***

If evidence, which provide ground to assume that a crime or a socially-dangerous behavior of an insane person has caused a moral, physical or material harm to a person, exists then he shall be recognized as victim. With regard to recognition of a person as victim the inquiry officer, investigator, procurator shall issue the resolution, and the court shall issue the ruling.

If victim is a minor or a person who has been recognized, under the procedure established by law, as disable, he shall participate in the case together with his lawful representative.

***Article 55. Rights and obligations of the victim***

The victim has a right: to give testimonies; to produce evidence; to submit petitions and challenges; to speak his mother language and use services of the interpreter; to have a representative in order to stand his interests; to participate upon the permission of the inquiry officer or the investigator in the investigating actions; to study at end of the pre-trial investigation with all materials of the case and write out of it necessary information; to participate at the sessions of the court of the first, appellate, cassational and supervisory instances; to submit complaints about actions and rulings of the inquiry officer, investigator, procurator and the court; to support, personally or through his representative, the accusation in court; to study the protocol of the court session and to propose corrections on it; to know about complaints and protests brought on the case, and to submit counter objections. *(amended by the para.8 section I of the Law #163-II, 14.12.2000)*

The victim is obliged: to appear upon the summons of the inquiry officer, the investigator, the procurator and the court; to give truthful testimonies; not to impede the ascertaining of the truth by means of destruction, falsification of evidences, by persuasion of witnesses or by other unlawful actions; to produce evidence on the request of the inquiry officer, investigator, procurator and the court; to follow the procedure during the course of investigation and the court hearing of the case.

If the victim fails to appear without justifying reasons, he can be subjected to compulsory delivery as it is provided by articles 261-264 of the present Code.

The victim shall bear a responsibility established by law for refusal to give testimonies or for giving intentionally false testimonies.

In the cases concerning the crimes, which caused death of the victim, the rights and obligations provided by the present article shall be fulfilled by his close relatives and other persons, who have been recognized as lawful representatives of the dead by the pre-trial investigation agencies or the court.

***Article 56. Civil plaintiff***

If evidence, which provide ground to assume that a crime or a socially-dangerous behavior of an insane person has caused material harm to a person, enterprise, institution or organization, exists then they shall be recognized as civil plaintiffs. With regard to recognition as civil plaintiff the inquiry officer, investigator, procurator shall issue the resolution, and the court shall issue the ruling.

In order to defend the right of the minors or the persons recognized as disabled, the civil suit can be initiated by their lawful representatives and by the procurator.

***Article 57. Rights and obligations of the civil plaintiff***

The civil plaintiff has a right: to initiate and support civil suit; to produce evidence; to give explanations concerning the suit; to have a representative in order to stand his interests; to submit petitions and challenges; to request the inquiry officer, investigator, procurator or the court to take measures for securing the suit; to study at the end of the pre-trial investigation with the materials of the case and write out of it necessary information; to participate at the sessions of the court of the first, appellate, cassation and supervisory instances; to submit complaints about actions and rulings of the inquiry officer, investigator, procurator and the court; to request review of the judgment and the ruling of the court in the part which concerns the civil suit; to know about complaints and protests brought on the case, and to submit counter objections. (*amended by the para.9 section I of the Law #163-II, 14.12.2000*)

The civil plaintiff is obliged: to appear upon the summons of the inquiry officer, the investigator, the procurator and the court, and to produce on their request the evidence in support of the civil suit; not to impede the ascertaining of the truth by means of destruction, falsification of evidences, by persuasion of witnesses or by other unlawful actions; to follow the procedure during the course of investigation and the court hearing of the case.

***Article 58. Civil defendant***



A person, enterprise, institution or organization that is, in accordance with the law, materially liable for the harm caused by the accused or by the insane person, shall be recognized as civil defendant. With regard to recognition as civil defendant the inquiry officer, investigator, procurator shall issue the resolution, and the court shall issue the ruling.

**Article 59. Rights and obligations of the civil defendant**

The civil defendant has a right: to know the essence of the charge and of the civil suit; to object against the suit; to give explanations; to have a representative in order to stand his interests; to produce evidence; to submit petitions and challenges; to study at the end of the pre-trial investigation with the materials of the case and write out of it necessary information; to participate at the sessions of the court of the first, appellate, cassation and supervisory instances; to submit complaints of the actions and rulings of the inquiry officer, investigator, procurator and the court; to request review of judgment and the ruling of the court in the part which concerns the civil suit; to know about complaints and protests brought on the case, and to submit counter objections. *(amended by the para.9 section I of the Law #163-II, 14.12.2000)*

The civil defendant is obliged: to appear upon the summons of the inquiry officer, the investigator, the procurator and the court, and to produce on their request the evidence concerning the civil suit; not to impede the ascertaining of the truth by means of destruction, falsification of evidences, by persuasion of witnesses or by other unlawful actions; to follow the procedure during the course of investigation and the court hearing of the case.

**Article 60. Lawful representatives of the suspect, accused, defendant, victim**

The lawful representatives shall be brought to participate in the case in order to stand the rights and the interests of the suspect, accused. Defendant or the victim, if they are minors or have been recognized in established procedure as lacking legal capacity.

The following persons may participate in the case as the lawful representative: the parents, adoptive persons; guardians; trustees; representatives of the institutions and organizations which are trustees in respect of the minor or the participant of the legal proceedings lacking dispositive legal capacity. The lawful representatives of the suspect, accused and defendant shall participate in the case together with the represented persons, whereas the representative of the victim shall participate in the case either together with the represented person or instead of him.

The access of the lawful representative to the case shall be confirmed by the resolution of the inquiry officer, investigator, procurator, or the ruling of the court. In the event of the incompatibility of the interests of the represented person and the lawful representative, the same resolution or the ruling shall appoint the lawyer to participate in the case on the part of the represented.

**Article 61. The rights and obligations of the representative**

The lawful representative has a right: to know the fact of the summon of the person represented by him to the inquiry officer, investigator, procurator or the court; upon the consent of the inquiry officer, investigator, procurator or the court, to participate in the interrogation of this person; to have meetings with the represented person held in custody on their own; to effectuate procedural rights possessed by the represented person in accordance with the present the present Code.

The lawful representative is obliged: to appear upon the summons of the inquiry officer, the procurator, the investigator and the court, and to produce on their request the evidence concerning the civil suit; not to impede the establishment of the truth by means of destruction, falsification of evidences, by persuasion of witnesses or by other unlawful actions; to follow the procedure in course of investigation of the case and in course of the court consideration.

The lawful representative can be interrogated as a witness, as well as brought to participate the case as the defense council, civil plaintiff or civil defendant. In these cases, the lawful representative shall bear the rights and obligations of the participants of the legal proceedings.

**Article 62. Representatives of the victim, civil plaintiff, civil defendant**

The following persons may participate the case as the representatives of the victim, civil plaintiff, civil defendant: the lawyers; the persons who has a special permit to participate as the representatives; the close relatives; and other persons allowed to participate in the case upon the resolution of the inquiry officer, investigator, the procurator or upon the ruling of the court.

A contract of commission concluded with the victim, civil plaintiff or the civil defendant shall be recognized as a ground for the participation of the representative in the case. The highest official of the legal entity be allowed to participate as its representative without a special authorization. Upon the presenting of the letter of authorization, issued by the highest official of legal entity, the staff personnel of the legal entity and the lawyers can be allowed to participate the case as its representatives.

The representative of the victim, civil plaintiff or civil defendant shall participate in the case either together with the represented person, or instead of him. The victim, civil plaintiff and civil defendant has a right to refuse from the representative at any stage of the legal proceedings on the case or to chose another person as a representative.

**Article 63. Rights and obligations of the representative**

The representative of the victim, civil plaintiff, civil defendant shall bear the procedural rights possessed, respectively by the victim, civil plaintiff and civil defendant. The representative ahs a right to give up his functions at any stage of the legal proceedings on the case.

The representative is obliged: to stand the rights and lawful interests of the represented persons; not to abuse their authority; to appear upon the summon of the inquiry officer, investigator, procurator and the court; to impede the establishment of the truth on the case by means of destruction, falsification of evidences, persuasion of witnesses other by any other unlawful actions; to follow the procedure in course of investigation and in course of the court session.

**Article 64. Obligation to explain to the participants of the legal proceedings their rights and to ensure the realization of these rights**

The inquiry officer, investigator, procurator or the judge shall explain to the suspect, accused, defendant, as well as to the victim, civil plaintiff, civil defendant and to their representative, their rights and to ensure the conditions of the realization of these rights. Simultaneously, the participants of the legal proceedings shall be explained of the obligations imposed on them and of the consequences of failure to execute them.

Chapter 6. Other persons participating in the criminal proceedings

Article 65. The witness

Article 66. The rights and obligations of the witness

Article 67. The expert

Article 68. The rights and obligations of the expert

Article 69. The specialist

Article 70. The rights and obligations of the specialist

Article 71. The interpreter

Article 72. The rights and obligations of the interpreter

Article 73. Attesting witnesses

Article 74. The rights and obligations of the attesting witness

Article 75. Reimbursement of the procedural costs to the victims and their representatives, to the witnesses, to the experts, to the specialists, to the interpreters and the attesting witness

**Article 65. Witness**

Any person, who might be aware of any circumstance that must be identified on the case, can be summoned to give the testimonies.

**Article 66. The rights and obligations of the witness**

The witness has a right: to give testimonies in his mother language, if he does not know or insufficiently know the language of the interrogation, and to use in the case the services of the interpreter; to make challenge to the interpreter, who participate in his interrogation; to recount his testimonies in writing; to familiarize himself with the protocol of interrogation and to make additions or changes; to use written notes and documents in course of interrogation; to complaint of the resolutions of the inquiry, investigator, procurator, the rulings of the courts, in defense of his interests.

The witness is obliged: to appear upon the summon of the inquiry, investigator, procurator and the court; to report honestly any information known to him on the case; to answer the given questions; not to disclose the facts known to him on the case without the permit of the interrogating agency; to follow the procedure in course of investigation of the case and in course of the court session.

If the witness fails to appear without any justifying reasons, he can be subjected to compulsory delivery in a way provided by articles 261-264 of the present Code.

The witness shall bear responsibility established by law for the refusal to give testimonies or for giving notorious false testimonies.

**Article 67. The expert**

Any person, who possesses the skills required for making a conclusion, can be summoned as an expert.

A summon of the expert and appointment of the expertise shall be conducted in accordance with the procedure established by articles 172-187 of the present Code.

**Article 68. The rights and obligations of the expert.**

The expert has a right: to familiarize himself with the materials of the case which refer to the subject of the expertise and write out necessary information; to make petitions on the provision of additional documents to him; to prepare a document on impossibility to provide a conclusion when the given questions are out of his special skills or when the provided materials are insufficient for making conclusion; upon the permit of the inquiry officer, investigator, procurator, to be present at the investigative actions and to give questions related to the subject of

the expertise to the persons participating in the investigative actions; to participate in the examination of evidences related to the subject of the expertise in course of the court consideration; and, upon the permit of the court, to give questions to the interrogated persons; to study the material evidences and documents; to recount in his conclusion the results of the examination of not only the questions put on him, but any other questions related to the subject of the expertise; to provide the conclusion and give testimonies on his mother language, if he does not know or insufficiently know the language of the legal proceedings, and to use in these case the services of the interpreter; to complain of the actions and rulings of the inquiry, investigator, procurator and the court.

The expert is obliged: to appear upon the summon of the inquiry, investigator, procurator and the court; to provide a written conclusion on questions put on him; to give testimonies with respect to the expertise conducted and to answer additional questions for the purpose of clarification of his conclusion; not to disclose without permit of the inquiry officer, investigator, procurator the materials of the inquiry and preliminary investigation; to follow the procedure in course of investigation and in course of the court session.

If the expert fails to appear without any justifying reasons, he can be subjected to liability provided by law.

The expert shall bear liability provided by law for the refusal or decline from execution of his obligations without justifying reasons, as well as for giving notorious false conclusion

#### **Article 69. The specialist**

The specialist shall be summoned to assist the inquiry officer, investigator, procurator and the court in the identification and fixing of evidences in course of investigation and court consideration. Persons with medical, pedagogical and other required skills and experience can be summoned as specialists.

The specialist can be summoned for the purpose of the use of scientific-technical means (audio recorder, video recorder, photo camera and other equipment) in course of investigation and court consideration.

A summon of the specialist and the procedure of his participation in investigation and court consideration shall be determined as provide by articles 91, 92, 136-138, 146,147,149,151,156 and 193 of the present Code.

#### **Article 70. The rights and obligations of the specialist**

The specialist has a right: to know the purpose of his summon; to refuse to participate in the legal proceedings on the case if he does not have required skills; to familiarize himself with the materials of the case related to the procedural actions in performance of which he

participates; to make statements and notes related to the procedural actions in the performance of which he participates; to give questions to the persons who participate in the investigative actions and the court consideration, upon the permit of the inquiry officer, investigator, procurator and the court; to complaint of the actions and rulings of the inquiry officer, investigator, procurator and the court.

The specialist is obliged: to appear upon the summon of the inquiry officer, investigator, procurator, court; to participate in the performance of the investigative actions and the court consideration, using the scientific-technical means, special skills and experience for the identification and fixing of evidences; to draw the circumstances important for the establishment of the truth on the case to the attention of the inquiry officer, investigator, procurator and the court; to give explanations in respect of performed actions; to assist the inquiry officer, investigator, procurator and the court in the identification of the reasons of crime, the conditions encouraged its commission, and in the development of the measures for their elimination; not to disclose the materials of the inquiry and preliminary investigation without the permit of the inquiry officer, investigator, procurator; to follow the procedure in course of investigation and court consideration.

#### **Article 71. Translator**

Translator may be summoned to court in case:

- 1) the suspect, the accused, the defendant or the victim, the plaintiff, the defendant or representatives thereof, the witness, the expert or the specialist possesses no or insufficient knowledge of the language of legal proceedings or is a deaf or mute;
- 2) written translation must be performed from a different language;

All rules with respect to translators shall be applied to the person interpreting signs of the deaf or mute summoned to the proceedings.

#### **Article 72. Rights and obligations of translator**

The translator has the right: to ask questions to the participants to clarify the translation: acquaint oneself with the protocols of investigation in which one participated and with the protocol of court session; make remarks to be included to the protocol; renounce from the participation if he does not possess knowledge required for translation; make complaints on the actions and rulings of the investigator, procurator and court.

The translator shall be obliged: to arrive upon the call of the investigator, inquiry officer, the procurator and the court; to conduct the interpretation fully and accurately; certify accuracy of the

translation signing the protocol of investigating action in which he participated, the protocol of the court session and the procedural documents issued to the persons participating in the proceedings and translated into their native language or other language they know; to not divulge without the permission of the inquiry officer, the investigator, the procurator the materials of the inquest or preliminary investigation; to keep order during investigation and the court session.

In case of inaccurate translation the translator produces responsibility prescribed by the law.

### **Article 73. Attesting witnesses**

Attesting witnesses shall be called by an inquiry officer, investigator or procurator in the cases prescribed in this Code to verify facts of investigating or other action, developments and results thereof.

For participation in the investigating action at least two attesting witnesses shall be called from adult citizens disinterested in the issue of the criminal case. The inquiry officer, investigator or procurator shall explain the rights and liabilities to the witnesses prior to the investigating action.

### **Article 74. Right and obligations of attesting witness**

An attesting witness shall have the rights: to participate in the investigating action; make remarks and statements with respect to the investigating action to be included to the protocol; familiarize oneself with the protocol of the investigating action he participated; make complaints on the actions and rulings of the inquiry officer, investigator or procurator.

An attesting witness is obliged: to arrive upon the request of the inquiry officer, investigator or procurator; participate in implementation of the investigating action; certify the facts of the investigating action, developments and results thereof with his signature in the protocol of investigating action; not to divulge without the permission of the inquiry officer, the investigator or the procurator, the materials of the inquest and preliminary investigation.

In case of a failure to perform his obligations without good reasons, the attesting witness shall be liable to responsibility prescribed by the law.

The attesting witness may be questioned as a witness of circumstances related to the investigating action he participated. In this case he shall have the rights and liabilities as per the Article 66 of this Code.

**Article 75. Compensation of expenses to victims, their representatives, witnesses, experts, specialists, translators and attesting witnesses**

A person summoned as a victim or his representative, witness, expert, specialist, translator and attesting witness shall retain the average salary at the work place for the time spent with respect to summons to the court, investigator and procurator. Unemployed persons shall be paid a compensation for being diverted from common activities. In addition all persons mentioned have the right to reimburse the expenses incurred with respect to the summons.

The expert, the specialist and the translator have the right to be rewarded for the duties performed except for the cases when such duties have been performed as an official assignment.

Reimbursement of expenses shall be performed in the amounts and procedures prescribed by the Law.

Chapter 7. Circumstances excluding from participation in criminal proceedings, challenges

Article 76. Circumstances excluding judge, procurator, investigator, inquiry officer and trial clerk from participation in proceedings

Article 77. Circumstances excluding representative of public association or collective from participation in proceedings

Article 78. Circumstances excluding expert, specialist, translator or attesting witness from participation in the proceedings.

Article 79. Circumstances excluding attorney, representative of victim, civil plaintiff or defendant from participation in proceedings

Article 80. Procedure of application and permission for challenge and self-withdrawal

**Article 76. Circumstances excluding judge, procurator, investigator, inquiry officer and the trial clerk from participation in the proceedings**

The judge as well as the assessor, the procurator, the investigator, the inquiry officer, the clerk of court may not participate in the criminal proceeding and shall be challenged in case:

- 1) he participates or participated in the same case as a victim, civil plaintiff, defendant, expert, specialist, translator, attesting



witness, witness, defense council, legal representative of the suspect, accused, defendant or representative of the victim, plaintiff, defendant;

- 2) he is a relative of any official, responsible for proceedings on the given case or other persons listed in the Item 1 of this part;
- 3) existence of other circumstances raising doubts about his objectivity and impartiality.

The judge may not participate in the consideration of the case if previously involved into the proceeding as an inquiry officer, investigator, procurator, clerk of the court.

The judge that participated in the consideration of the case at the court of original jurisdiction, the appellate court or in the course of supervision may not participate in the examination of the case after the sentence is recalled, ruling brought with his involvement except for participation of the judges of the Supreme court of the Republic of Uzbekistan when examining criminal cases at the Plenum.

Conduct of procedural responsibilities by the inquiry officer, the investigator and the clerk of the court shall not be an obstacle for the repeated participation thereof in the course of examination, preliminary investigation and keeping records on the same case during additional investigation or a new legal case.

**Article 77. Circumstances excluding representative of public association or collective from participation in proceedings**

The public procurator, public attorney and other representatives of a public association or a collective may not participate in the proceedings and shall be challenged in the presence of the circumstances provided for in the article 76 of this Code

**Article 78. Circumstances excluding expert, specialist, translator or attesting witness from participation in proceedings**

The expert, the specialist and the translator may not participate in the criminal proceedings and shall be challenged in the presence of circumstances provided for in the article 76 of this Code and official or other dependence from any person participating in the proceedings.

The expert, the specialist and the translator may also be challenged if their professional incompetence is revealed as well as attesting witnesses that are employed by the interior agencies, national security services, public procurator's office, justice or court agencies.

The expert or the specialist may not participate in the proceedings if he has conducted revisions or any other checking action, the results of which served as a basis for an institution of the criminal case.

The person that has participated in the case as a specialist may also participate in the same case as an expert in future.

**Article 79. Circumstances excluding attorney, representative of victim, civil plaintiff or defendant from participation in proceedings**

The attorney and the representative of the victim, the plaintiff or defendant may not participate in the proceedings on the criminal case if:

- 1) he earlier participated in the case as a judge, assessor, procurator, investigator, inquiry officer, clerk of the court, expert, specialist, translator or attesting witness;
- 2) he is in relation to the judge, assessor, procurator, investigator, inquiry officer, clerk of the court that have participated in the investigation or legal proceedings on the case or is in relation to the person whose interests contradict to the interests of the participant in the proceedings offered legal assistance;
- 3) he is an acting judge, procurator, investigator, inquiry officer except for the cases he is a legal representative of an incapable person or acting in the capacity of a representative of the agency employing him, if such agency is recognized as a civil plaintiff or involved in the case as a civil defendant;
- 4) he provides or has previously provided legal assistance to the person whose interests are opposite with the interests of the currently defended suspect, accused person or the victim, civil plaintiff or defendant he represents.

**Article 80. Procedure of application and permission for challenge and self-withdrawal**

In the presence of circumstances prescribed in the articles 76-79 of this Code, the judge, assessor, procurator, investigator, inquiry officer, clerk of the court, representative of public association or collective, attorney, representative of the victim, civil plaintiff or defendant, expert, specialist, translator, attesting witness shall declare a self-withdrawal. In failure to do so, a challenge on the same grounds may be declared by the suspect, the accused person, the victim, the civil plaintiff, the civil defendant and representatives thereof and besides, during the court's session, by the public procurator, the representative of a public association or collective.

A challenge during the investigation may be raised by the procurator, the investigator, the inquiry officer or during the session by the court.

An application on challenge must be motivated.

The person to whom the challenge is declared may give his own explanations.

A challenge to the judge shall be resolved by the other judges in the absence of the challenged. In case of the vote equality the judge shall be considered challenged. An issue of the challenge declared to the majority of judges or the whole group of judges or the clerk of the court shall be resolved by the court with its full complement by simple majority vote. An issue of the challenge to the judge who examines the case individually shall be resolved by the judge himself.

An issue of the challenge to the procurator shall be resolved during the investigation by the higher procurator and during the session by the court.

An issue of the challenge to the representative of a public association or collective shall be resolved by the court examining the case.

An issue of the challenge to the expert, the specialist, the translator, the representative of the victim, the civil plaintiff, the civil defendant shall be resolved during investigation by the inquiry officer or the investigator and during the session by the court examining the case.

An issue of the challenge to the attesting witness shall be resolved by the inquiry officer or the investigator.

An issue of the challenge declared during investigation shall be resolved by the inquiry officer, the investigator, the procurator within twenty four hours. The challenge declared during the court session shall be resolved immediately during the same session.

Satisfaction or rejection of the declared challenge shall be stated in a resolution by the inquiry officer, the investigator and the procurator, and in a ruling by the court.

Section three. Evidence and circumstances subject to substantiation

Chapter 8. Evidence

Article 81. Types of evidence

Article 82. Grounds for accusation and conviction

Article 83. Grounds for rehabilitation

Article 84. Grounds for termination of case without solving culpability issue

**Article 81. Types of evidence**

Evidence in criminal cases means all factual data, on the basis of which and in the legally prescribed order, the inquiry body, the investigator or the court establishes presence or absence of a publicly dangerous action, culpability of the person who committed such action and other circumstances that matter for correct resolution of the case.

Such data shall be established by: testimony of the witness, the victim, the suspect, the accused, the defendant, conclusion of the expert, exhibit, sound recording, video, photo and film materials, protocols of investigating and legal actions and other documents.

**Article 82. Grounds for accusation and conviction**

The case may be brought to court with criminal information and sentence may be passed if the following is substantiated:

- 1) object of a crime; nature and extent of damage caused by the crime; the circumstances describing personality of the victim;
- 2) time, scene, manner and other circumstances established in the Criminal Code; causal relationship between the criminal act and publicly dangerous consequences;
- 3) commitment of the crime by this person;
- 4) commitment of the crime with direct or indirect intent, or negligence or presumption; motivation and aims of the crime;
- 5) Circumstances describing personality of the accused, the defendant.

**Article 83. Grounds for rehabilitation**

The suspect, the accused, the defendant shall be acquitted and rehabilitated in the case:

- 1) of absence of the event of crime on which the case has been brought, the investigation and court examination conducted;
- 2) of absence of corpus delicti;
- 3) he is not implicated to the crime.

**Article 84. Grounds for termination of case without solving culpability issue**

The criminal case shall be discontinued without solving the culpability issue in the committed crime if:

- 1) the period of limitation for accountability has expired;
- 2) the crime committed or the person stand within the act of amnesty;
- 3) the suspect, the accused is dead;
- 4) the same person is sentenced with the same charge that has come into legal force;
- 5) ruling (resolution) of the court has come into force or an authorized official has resolved to reject initiation of the case or dismiss the case with respect to such person on the same charges;
- 6) the victim has not lodged a complaint in cases when the case may be initiated solely upon submission of a complaint except for the cases prescribed in the article 325 of this Code;
- 7) the person has not come of majority age by the moment of committing of the publicly dangerous act that entails criminal responsibility.

In cases when the period of limitation has expired or an act of amnesty has been adopted or the accused, defendant has died after criminal proceedings had been instituted against such person, the proceedings may continue in the general order if the accused, the defendant or close relatives of the dead accused or defendant insist upon this. In such cases the indictment sentence shall be passed without awarding the punishment.

The criminal case against the person, who developed a mental disease upon committing the crime and is unable to be conscious of his actions and direct them, shall be dismissed without resolving the culpability issue on the procedures prescribed in the chapter 61 of this Code.

The criminal case may be dismissed with a consent of the person without resolving the culpability issue if:

- 1) recognized that by the time of investigation or examination of the case the act has lost the nature of a socially dangerous or is no longer a socially dangerous as a result of change in situation;
- 2) the person committed a crime for the first time which does not bear a large social danger or is a minor offense, eliminated the damage caused by the crime, sincerely repented in the committed and actively cooperated in disclosing the crime;
- 3) it is expedient to bring the materials to consideration of the commission on juvenile offenders, taking into account the nature of the act, personality of the person who committed a minor offense for the first time.

Chapter 9. General conditions for substantiation

- Article 85. Substantiation  
 Article 86. Substantiation participants  
 Article 87. Collection of evidence  
 Article 88. Protection of rights and legal interests of citizens, enterprises, agencies and organization during substantiation  
 Article 89. Protection of state secrets  
 Article 90. Recording evidence in protocols  
 Article 91. Additional methods of recording substantiations. Appendices to protocols.  
 Article 92. Verification of accuracy of evidence recorded  
 Article 93. Verification of refusal or inability to sign protocol  
 Article 94. Verification of evidence  
 Article 95. Assessment of evidence

**Article 85. Substantiation**

Substantiation consists of collection, verification and assessment of evidence to establish truth on circumstances that matter for legal, grounded and just resolution of the case.

**Article 86. Substantiation participants**

The inquiry officer, investigator, the procurator and the court shall conduct substantiations.

The suspect, the accused, the defendant, the attorney, the public procurator, the public attorney, the victim, the civil plaintiff, the civil defendant and representatives thereof may also participate in substantiation.

The witnesses, experts, specialists, translators, attesting witnesses as well as other citizens and officials who execute the rights and responsibilities related to collection, verification and assessment of evidence in the course of this Code shall be called to participate in the substantiation.

**Article 87. Collection of evidence**

Evidence shall be collected by instituting investigating and legal acts: interrogation of the suspect, the accused, the defendant, the witness, the victim, the expert; confrontation; identification; verification of testimony at the crime scene; seizure; search; inspection; examination; exhumation; experiments; receipt of specimen for expert investigation; conduct of expert examination and inspections; adoption of items and

documents produced; tapping telephones and other speech communication devices.

**Article 88. Protection of rights and legal interests of citizens, enterprises, agencies and organization during substantiation**

During collection, verification and evaluation of evidence, full protection of rights and legal interests of citizens, enterprises, agencies and organizations shall be provided.

Substantiation shall exclude:

- 1) any actions dangerous for life and health of a person or humiliating his dignity;
- 2) seeking for testimonies, explanations, conclusions, conduct of experimental actions, production and issue of documents or items by means of violence, threat, fraud and other illegal measures;
- 3) conduct of investigating actions during the night time, i.e. from 22:00 till 6:00 except for the cases this may be required to prevent a crime being prepared or committed, avert possible loss of evidence or escape of the suspect, render situation of the event investigated during the experiment.

The inquiry officer, the investigator, the procurator, the judge and other persons, except for doctors, participating in the case in the capacity of a specialist or an expert may not be present when a person of the opposite sex is bared for the purpose of investigating or legal action.

The inquiry officer, the investigator, the procurator, the judge shall adopt all measures for non-disclosure of the information revealed during the investigation and legal proceedings about the private life of the suspect, the accused, the victim and other persons. For this purpose the group of persons present during the investigating or legal action, that may reveal such information, shall be restricted and the persons present shall be notified on the responsibility for such disclosure.

The items and documents seized during investigating and legal actions shall be accurately described in the respective protocols while the owner of such document or item shall be provided with a copy of the protocol or extract therefrom. The items and documents irrelevant to the case shall be immediately returned to the owners. The items and documents that may not be kept by citizens shall be destroyed or transferred to the institutions and organizations entitled to hold and use such items and documents.

**Article 89. Protection of state secrets**

Examination, seizure and other actions with respect to the documents and items that constitute state secrets may be executed only upon the ruling of the inquiry officer or the investigator, authorized by the procurator; or by ruling of the court.

The time, location and other conditions for such actions shall be agreed between the procurator or the chairman of session and the head of the enterprise, agency or organization responsible for maintaining such documents or items.

Only persons entitled to work with the documents and items constituting the state secret shall be admitted as experts, specialists and attesting witnesses.

**Article 90. Recording evidence in protocols**

Information and items may be employed as evidence only upon the record in the protocols of investigating actions or in the court session protocol.

Responsibility for maintaining such protocols during inquiry and preliminary investigation shall be on the inquiry officer and investigator, and while in court - on the chairman and the clerk of court.

The records to protocols shall include: information on persons participating in investigating or legal action, explanation of rights and liabilities to such persons, time and venue, conditions, developments and results of the investigating or legal action, description of material items and trace thereof that may matter for the case; indication of facts that were requested to be verified by the participants of the investigating action or legal proceedings; the testimony, explanations, remarks thereof with respect to happenings; solicitation, complaints, challenges produced thereby, facts of disorderly conduct during investigating action or court examination and measures to prevent and suppress such conduct.

**Article 91. Additional methods of recording substantiations. Appendices to protocols.**

Sound recording, video recording, filming, photographing, molding, imprinting, production of maps and schemes and other forms for representing information may be used for recording evidence, additional to protocols.



The inquiry officer, the investigator, the court shall put a record to the protocol of investigating action or the session protocol with respect to the applied methods for recording evidence that includes technical parameters of the apparatus, devices, instruments and materials employed.

Photographs, phonograms, videos, films, moulds, imprints, maps, schemes and other representation of the course and results of the investigating or legal action shall be attached to the protocol. Each attachment shall contain an explanatory note indicating the name, place, and date of the investigatory or legal action it is attached to. Such note shall be certified with the signatures: of the inquiry officer or the investigator and the attesting witnesses during the inquiry and preliminary investigation stage; of the clerk of court and the chairman in the court.

**Article 92. Verification of accuracy of evidence recorded**

The participants of the investigating actions and the parties in the court examination shall have the right to familiarize themselves with the protocols containing course and results of such actions and to introduce additions and corrections to the protocols.

Immediately upon completion of the investigating action the inquiry officer or the investigator shall allow the participants to read the protocol or shall read it aloud upon the request thereof. In the same procedure the chairman or the clerk of court of his behalf shall familiarize the participants of the legal action, conducted outside the court, as well as the parties, with the records to the protocol of the court's session related to respective legal action.

Additions, corrections, remarks, objections, solicitations and complaints stated verbally shall be recorded to the protocol and those in written shall be attached to the protocol. Crossed out or written-in words and other corrections shall have respective reservation before the signatures in the end of the protocol.

The persons familiarized with the protocol of investigating action sign the bottom of each page and the end of the protocol.

**Article 93. Verification of refusal or inability to sign protocol**

The inquiry officer or investigator shall make a note certified with his signature in the protocol in the event of refusal by any process participant or other person to sign the protocol of investigating action in the cases prescribed in this Code.

In the event of refusal to sign the protocol of the court session, the respective note shall be recorded into the protocol and certified with the signatures of the chairman and the clerk of court.

The person refusing to sign the protocol shall have the right to explain the grounds for such refusal. This explanation shall be recorded to the protocol.

In case a participant of the investigatory or legal action is unable to sign the protocol due to disfigurements, upon the consent thereof, the attorney, representative or any other citizen, trusted by the participant shall sign the protocol and the respective note shall be entered.

#### **Article 94. Verification of evidence**

Only thoroughly, fully, comprehensively and objectively verified evidence may underlie the case ruling. Verification shall consist of collection of additional evidence that support or disprove the evidence verified.

#### **Article 95. Assessment of evidence**

The inquiry officer, investigator, procurator and court shall evaluate evidence on their own conviction based on thorough, comprehensive, complete and objective investigation of all facts of the case and guided by the law and the sense of justice. Each of evidence shall be evaluated from the point of view of referability, admissibility and reliability.

The evidence shall be recognized as referable to the criminal case if produces information on facts and items that confirm, disprove or prejudice findings on the circumstances that matter for the case.

The evidence shall be admissible if collected in accordance with established procedure and meets the requirements of the Articles 92-94 of this Code.

The evidence shall be recognized reliable if verification proves that such evidence meets the reality.

Cumulative evidence shall be recognized sufficient for resolution of the case if all referable and reliable evidence collected incontestably set the truth on all and each of the facts subject to substantiation.

### **Chapter 10. General rules of interrogation**

Article 96. Place of interrogation

Article 97. Summons to interrogation

Article 98. Identification of personality of the interrogated

- Article 99. Clarification of the interrogated person's language of testimony
- Article 100. Explanation of rights and responsibilities
- Article 101. Free description on facts of the case
- Article 102. Inadmissibility of leading questions
- Article 103. Use of documents and other records by the interrogated
- Article 104. Announcement of testimony by the interrogated made at previous interrogation
- Article 105. Presentation of documents and items to the interrogated
- Article 106. Recording of the course and results of interrogation
- Article 107. Length of interrogation
- Article 108. Additional interrogation

Chapter 10. General rules of interrogation

**Article 96. Place of interrogation**

The inquiry officer or investigator shall interrogate witnesses, victims, suspects and accused at inquiry, preliminary investigation premises or at the location of the interrogated, and the court - at the venue of the session.

**Article 97. Summons to interrogation**

The witness, the victim, as well as the suspect, the accused and the defendant at large shall be summoned to the inquiry officer, the investigator, the procurator and the court with the writ of summons. Such writ shall be sent by post or special delivery. The summons may also be done via the telephone, cable, radiogram or fax.

The writ of summons shall indicate who is summoned, in what capacity, address and the person to meet, the day and hour of appearance and responsibility for non-appearance without good reasons.

The writ of summons shall be handed to the summoned on receipt. In case of absence of the summoned, the writ of summons shall be handed over on receipt to any of the adult family members, administration of dormitory, landlord or representative of the local citizens' self-governance body.

The persons detained at investigating cell, temporary detention cells, penitentiaries shall be summoned via the administration of the institution.

**Article 98. Identification of personality of the interrogated**

Before the interrogation, the inquiry officer, the investigator and the court shall clarify the interrogated person's last, middle and first

names, date (date, month, year) and place of birth, residence and place of employment, position, occupation, background, marital status, previous convictions and compare these data with the information available in the criminal case or personal files of the interrogated or by any other means ensure that the interrogated is the person as named.

**Article 99. Clarification of the interrogated person's language of testimony**

In case of emergence of issues if the interrogated has command of the language in which the interrogation is conducted and what language he employs to testify, such issues shall be clarified. In such cases, as prescribed in the article 71 of this Code, a translator shall be requested and the interrogation shall be postponed until his arrival.

**Article 100. Explanation of rights and responsibilities**

Upon the clarification of the interrogated individual's personality, he shall be explained the rights and responsibilities as provided in this Code. Upon explanation of such rights and responsibilities a respective note shall be entered into the interrogation protocol or the court session protocol.

**Article 101. Free description on facts of the case**

The interrogated shall be offered to recount the known facts on the case. Upon the free description the interrogated may be asked questions to supplement or clarify his testimony.

**Article 102. Inadmissibility of leading questions**

A question containing direct or indirect indication of the expected answer shall be recognized as leading. It shall be prohibited to ask leading questions.

**Article 103. Use of documents and other records by the interrogated**

During interrogation the interrogated may use documents or any other records of his own or attached to the case when his testimony involves numbers or other information difficult to remember.

The interrogated may be allowed to announce documents and other records in his possession during the interrogation.

The inquiry officer, the investigator and the court may demand the documents and other records from the interrogated that he uses during the interrogation to subsequently return them or attach to the case.

**Article 104. Announcement of testimony by the interrogated made at previous interrogation**

The testimony from the previous interrogation may be announced only after the testimony at the current interrogation has been heard, recorded and signed by the interrogated and in the case:

- 1) of substantial contradictions between testimonies at the current and the previous interrogations;
- 2) of refusal by the interrogated to testify in court;
- 3) consideration of the case in the absence of the interrogated.

**Article 105. Presentation of documents and items to the interrogated**

During inquiry the inquiry officer, the investigator and the judges, as well as the parties at court examination may produce documents and items, attached to the file or in disposal of the parties and announce such documents.

The protocol of interrogation or the protocol of court session shall be entered an accurate description of the item or the document demonstrated, the part of the document announced and the person who announced, the questions followed the demonstration of the document and what testimony was produced by the interrogated with respect to such demonstration.

**Article 106. Recording of the course and results of interrogation**

The course and results of interrogation during the inquiry and preliminary investigation stage shall be recorded to the interrogation protocol and in case of court examination into the court session protocol respectively.

Along with maintaining protocols the interrogation may involve sound recording, video recording and filming.

Testimony shall be recorded to the protocol from the first person and as literally as possible. Questions and answers shall be recorded in the same sequence as in the course of interrogation. The protocol shall also include questions overruled by the inquiry officer, the investigator or the chairman at the court session as well as questions refused by the inquiry officer.

The protocol shall include announcements of testimony, produced by the interrogated during previous interrogations, use of documents and other records by the interrogated, presentation of items and documents during the interrogation, entries of sound and video recording and filming. The phonogram, videotape and the film shall be attached to the protocol.

Upon the completion of interrogation, the protocol shall be presented to the interrogated for reading or shall be read aloud by the inquiry officer, investigator if requested.

The interrogated shall have the right to commit the testimony to paper with his own hand. The autographic record of testimony shall be attached to the protocol and respective note shall be made into the protocol.

Prior to signing the protocol the interrogated or a party to the court examination may ask to play back the sound recording, video recording or film. In the event of substantial discrepancies between such records and the protocol, the interrogation may be resumed to clarify reasons for such discrepancy.

Upon reading the protocol, the interrogated shall certify the accuracy of testimony recorded and own familiarization therewith. The signature shall be appended in the end of the protocol and if the testimony is recorded onto several pages, every page shall be signed individually.

If a translator participates in interrogation, he shall interpret the testimony records in the protocol to the interrogated and translate in written the autographic testimony. The translator shall sign the testimony records in the end of the protocol and each page thereof individually as well as translation of the autographic testimony of the interrogated.

#### **Article 107. Length of interrogation**

Overall length of interrogation during the day may not exceed eight hours not counting breaks for the rest and food of one hour.

#### **Article 108. Additional interrogation**

Additional interrogation may be conducted if:

- 1) the length of interrogation as per the article 107 of this Code was insufficient to allow the interrogated to testify on all known facts;
- 2) the interrogated expressed a wish to supplement or change the previous testimony;
- 3) the interrogated has been charged a new or altered or additional incrimination;
- 4) the procurator considers necessary to verify accuracy of the testimony records of the person, previously interrogated by the investigator or the inquiry officer;
- 5) a new investigator in charge for the case chooses to conduct additional interrogation to verify accuracy of the testimony records

of the person, previously interrogated by the inquiry officer or other investigator;

- 6) new substantial questions to the previously interrogated have emerged;
- 7) the reserve assessor who entered the case after the interrogation of the person demands that this person is interrogated over again.

#### Chapter 11. Interrogation of suspect and accused

- Article 109. Procedures for interrogation of suspect and accused person  
 Article 110. Terms of interrogation  
 Article 111. Actions preceding first interrogation of suspect and accused person  
 Article 112. Evaluation of testimony of suspect and accused  
 Article 113. **Confession statement**

Article 109. Procedures for interrogation of the suspect and the accused

Interrogation of the suspect and the accused shall be conducted in accordance with the rules provided for in the articles 96-108 of this Code and the following articles of this chapter.

Article 110. Terms of interrogation

During inquiry and preliminary investigation the suspect, the accused person shall be interrogated immediately or not later than twenty four hours upon the arrest, summoned arrival to the interrogation, detention or forcible bringing to interrogation.

The judge shall provide the defendant with the right to testify in any moment during the court investigation. If the defendant wishes to testify in the course of any legal action, the court shall provide him with this opportunity upon the completion of such action.

Article 111. Actions preceding first interrogation of suspect and accused person

Immediately before the interrogation of the suspect and the accused person, the inquiry officer or the investigator shall perform the actions prescribed in the articles 98-100 of this Code.

After such actions the inquiry officer, the investigator shall:

- 1) explain the procedural rights and responsibilities to the accused, the suspect as prescribed in the articles 46-48 of this Code;

- 2) ensure participation of the attorney in the interrogation that the accused, the suspect entered into agreement with, or any other attorney, if the accused, the suspect did not have time or was unable to enter into an agreement;
- 3) declare the crime to the suspect in which he is held suspected;
- 4) present the ruling to the suspect on institution of criminal proceedings against him as a suspect and explain the substance of the charge.

The inquiry officer, the investigator shall also clarify prior to interrogation, if the suspect recognizes himself guilty or denies his guilt completely or partially.

The actions performed as listed in this article shall be recorded into the suspect's interrogation protocol by the inquiry officer or the investigator, and by court into the court session protocol respectively.

#### Article 112. Evaluation of testimony of suspect and accused

Testimony by the suspect on the crime committed and confession of the accused may underlie the charge only if such confession is supported by cumulative evidence.

Information inferred from the testimony by the accused or the suspect as well as other evidence shall be verified and assessed with respect to all facts of the case both in case of confession and denial of guilt by the accused.

#### Article 113. **Confession statement**

Confession statement means communication on the crime, committed by the declaring person himself, who has not been suspected or accused in this crime.

A confession statement may be verbal or written. The verbal statement shall be recorded by the inquiry officer, investigator, procurator or the court to the protocol that includes information on the declarant's personal data and content of his statement in the first person. The protocol shall be signed by the declarants and the inquiry officer, the investigator, the procurator or the judge.

#### Chapter 12. Interrogation of the witness and the victim

Article 114. Procedure of interrogation of witness and victim

Article 115. Persons who cannot be interrogated as witnesses and victims



- Article 116. Persons who can be interrogated as witnesses and victims only upon consent thereof
- Article 117. Notification of the witness and the witness on accountability for violation of procedural responsibilities
- Article 118. Inadmissibility of refusal to testify with reference to exceptional circumstances
- Article 119. Testimony by the witness and the accused
- Article 120. Interrogation of the witness and the accused at the instance thereof
- Article 121. Peculiarities of interrogation of a juvenile witness or accused

**Article 114. Procedure of interrogation of the witness and the victim**

The witness and the victim shall be interrogated according to the general rules as prescribed in the articles 96-108 of this Code and the following articles of this Chapter.

**Article 115. Persons who cannot be interrogated as witnesses and victims**

The following may not be interrogated in the capacity of a witness or a victim:

- 1) judge or assessor - on the facts discussed in the deliberation room on the issues emerged during the judgment or the court's ruling;
- 2) the attorney and the representative of the victim, civil plaintiff, civil defendant - on the facts that became known to them as they fulfilled obligations on the criminal case;
- 3) a person unable to apprehend correctly the facts mattering for the case due to mental or physical defects.

**Article 116. Persons who can be interrogated as witnesses and victims only upon consent thereof**

Close relatives of the suspect, the accused, the defendant may be interrogated as witnesses or victims on the facts with respect to the suspect, the accused only upon their consent.

**Article 117. Notification of the witness and the witness on accountability for violation of procedural responsibilities**

Upon clarification of the accused person's or the suspect's personal data and explanation of procedural rights and responsibilities, he shall be notified on criminal accountability for refusal to testify or testify

falsely and the respective record shall be entered into the protocol of interrogation or the protocol of the court session.

Close relatives of the suspected, the accused, the defendant shall not be notified on accountability for refusal to testify.

**Article 118. Inadmissibility of refusal to testify with reference to exceptional circumstances**

The witness and the victim may not refuse to testify on the grounds that the facts under clarification are related to the state or professional secrets, or to the intimate relations of the suspect, accused, defendant and other persons.

If the inquiry officer, the investigator or the courts believe that the facts to be clarified may reveal state or professional secrets, or related to the intimate relations of the person, they shall act in a way to exclude disclosure of such facts.

**Article 119. Testimony by the witness and the accused**

After the witness and the victim have been notified on accountability for violation of procedural responsibilities, the victim shall answer the questions of relations with the suspect, the accused, the defendant, the civil plaintiff and the civil defendant; and the witness also on the relations with the victim. Then, on the inquiry officer's initiative, the witness or the victim shall inform on any facts that are or may be of some importance to the case, including the facts on the personality of the suspect, the accused, the defendant and other persons.

**Article 120. Interrogation of the witness and the accused at the instance thereof**

If the witness or the victim wishes to testify at the site of investigation or in court, he shall be interrogated during the same day or not later than the following day.

If communication of the witness or the accused containing a wish to testify arrived to the court or investigator by post, he shall be immediately notified on the time and site of interrogation that shall take place immediately upon his arrival.

**Article 121. Peculiarities of interrogation of a juvenile witness or accused person**

A witness or victim below the age of sixteen shall be interrogated in the presence of his legal representative or an adult close relative, a

pedagogue or representative of the victim on their own consent. Such people may ask questions to the witness or the victim on the consent of the inquiry officer.

The witnesses and the accused under the age of sixteen shall not be notified on accountability for refusal to testify or give deliberately false evidence, but the inquiry officer, the investigator or the chairman at the session shall remind to such witnesses and victims, while explaining the procedural rights and responsibilities, on the moral duties to give true evidence and assist in establishing truth on the criminal case.

#### Chapter 13. Confrontation

Article 122. Grounds for confrontation

Article 123. Procedure of confrontation

Article 124. Announcement of previous testimony at confrontation

#### **Article 122. Grounds for confrontation**

Confrontation shall be employed due to significant contradictions between the testimonies of two persons earlier interrogated, to clarify the reasons for such contradiction.

The suspect, the accused, the defendant, the victim and the witness may be interrogated at confrontation.

#### **Article 123. Procedure of confrontation**

During confrontation general interrogation rules and the following rules of this chapter shall be followed.

At the beginning of confrontation the inquiry officer, the investigator or the chairman of the court session shall ask each of the interrogated individually if they are familiar with each other, the extent of their relations and listen to their answers. Then each interrogated shall be individually requested to answer the questions on the facts that caused contradiction. If contradiction appears with respect to several episodes or several facts, then after confronting on one episode or fact, they may be asked questions on the next episode or fact.

By authority of the inquiry officer, the investigator or the chairman of court session, one confronted may ask questions to the other confronted. During the court session, both confronted may be asked questions from the assessors and the parties. The inquiry officer, the investigator and the chairman of the session shall have the right to overrule the questions

with no significant importance to the case or irrelevant to the contradiction clarified at the confrontation.

**Article 124. Announcement of previous testimony at confrontation**

Announcement of extracts from the protocol of interrogation or playback of sound recordings from the previous interrogations shall be permitted at confrontation only after testimony at confrontation has been recorded into the protocol.

Chapter 14. Presentation for identification

Article 125.	Grounds for presentation for identification
Article 126.	Interrogation preceding presentation for identification
Article 127.	Procedure for identification of a person
Article 128.	Procedure for identification of movables
Article 129.	Procedure for identification of immovables
Article 130.	Testimony of identifier under identification
Article 131.	Record of identification facts

**Article 125. Grounds for presentation for identification**

Identification shall be conducted to verify the testimony by the witness, the victim, the suspect, the accused or the defendant on a person or an item when it is necessary to:

- 1) clarify if this testimony is related to the specific person or item;
- 2) detect the person or the item described in the testimony amongst many items or persons known to the inquiry officer, the investigator or the court;

**Article 126. Interrogation preceding presentation for identification**

The identifier shall be preliminarily questioned on features, description and peculiarities of the person or the item to be identified.

**Article 127. Procedure for identification of a person**

The person shall be offered for identification among a group of persons of a similar appearance and not implicated in the case investigated, in the presence of attesting witnesses. The total number of persons presented for identification may not be less than three.

Prior to identification, the person to be identified shall be offered to take any place in the group of persons presented.

The person to be identified shall not be clearly distinguished by his clothes, haircut or other signs among the others presented.

In case of inability to present the person for identification or for security purposes, his photograph may be demonstrated.

At least three fixedly glued to a table, sealed and numerated photographs, without names and surnames of persons photographed shall be presented for identification.

**Article 128. Procedure for identification of movables**

Items, fractions of items and animals that may be delivered to the investigation site, court or any other location shall be presented for identification among other similar items irrelevant to the given case.

A similar item means an item, not distinguished from the item described in the testimony by its outward appearance, features, peculiarities indicated by the identifier during interrogation. The inquiry officer, the investigator, in the presence of attesting witnesses, shall determine the location order for the items presented for identification.

The procedures for identification among similar items shall not apply to corpse identification.

**Article 129. Procedure for identification of immovables**

In case the victim, the witness, the suspect, the accused or the defendant mentions and describes a site, building, separate premise in a building or any other immovable, but is in difficulty to define or indicate the location and is willing to demonstrate the way to the object from the known starting point, he shall be given such opportunity to show the object.

The inquiry officer or the investigator and attesting witnesses, or the court and the parties along with the identifier arrive to the indicated starting point. From that point the participants of presentation for identification shall move on the identifier's directions. All measures shall be adopted to prevent other participants or outsiders from prompting the route to the identifier.

**Article 130. Testimony of identifier under identification**

Upon presentation of the group of persons or several items, the identifier shall be offered to point at the person or the item previously indicated in testimony.

In case the identifier points at any of the persons or items presented he shall be asked to explain the features and peculiarities noted to recognize this person or item among other persons and items presented.

In case the identifier states that he has not seen any persons or items before, he shall be offered to explain how the item or the person sought differs from those presented.

**Article 131. Record of identification facts**

After presentation for identification during inquiry or preliminary investigation, a protocol shall be written. Presentation for identification at court examination shall be recorded in the court session protocol.

In any cases the protocol shall include: data on identifier, conditions, course and results of identification, persons among identified, their age, height, nationality, residence, visible signs, clothes; description of items to be identified, and in case of an immovable object the protocol shall include description of the route, directed by the identifier, and the movement direction from the starting point to the object sought.

Upon demonstration of photographs, the photo-table shall be attached to the protocol.

Testimony by the identifier and the questions asked by the inquiry officer, the investigator, the court, the parties and other persons as well as answers shall be recorded into the protocol in accordance with the rules prescribed in the article 106 of this Code.

Chapter 15. Verification of testimony at crime scene

- Article 132. Grounds for verification of testimony at crime scene
- Article 133. Procedure of verification of testimony at crime scene
- Article 134. Protocol of verification of testimony at crime scene

**Article 132. Grounds for verification of testimony at the crime scene**

The inquiry officer, the investigator, the court shall have the right to verify the testimony by the suspect, the accused, the defendant, the witness, the victim by reproduction of the event investigated at the crime scene.

Verification of testimony at the crime scene shall be conducted with the purpose of: detection of items, documents, traces, signs, location of which is known to the person whose testimony is verified, but is unknown

to the inquiry officer, the investigator, the court; indication of the site or the route by the person, that matters for the case to elicit coincidences or contradictions in the testimony of several persons on the same facts; verification of reliability of the testimony by means of reproduction and collation with situation of the event.

The person, whose testimony is verified, shall give explanations at the crime scene accompanied by demonstration, examination and withdrawal of individual items, documents, signs or demonstration of specific actions, or clarification of previous testimony.

Results of verification of testimony of the suspect, the accused, the defendant at the crime scene is important for substantiation if awareness of these persons on specific events may be explained only by connections of these persons to the crime.

### **Article 133. Procedure of verification of testimony at crime scene**

Verification of testimony at the crime scene shall be conducted by the inquiry officer or the investigator with participation of attesting witnesses, and by court with participation of the parties. Experts and specialists may also participate during verification of testimony at the crime scene.

The investigator, the inquiry officer or the court shall announce the testimony to be verified in the presence of the parties and other participants of the investigating action and ask the person whose testimony is verified if it is correct or must be changed or supplemented, and explain the purpose and procedure of verification. The witness or the victim, whose testimony is verified, except for those under the age of sixteen, shall be notified on the criminal accountability for refusal to testify or produce false testimony.

Simultaneous verification of testimonies by several persons at the crime scene shall not be permitted.

Verification of testimony at the crime scene may involve reproduction of the situation and circumstances of the event investigated, search and indication of items, signs related to the case, demonstration of specific actions, and indication of roles of individual items during the event; attention to changes in situation at the scene; specification and correction of the previous testimony by the person. Any outside interference, prompting and leading questions shall be prohibited.

After free description and demonstration of actions, the testifying person may be asked questions. The persons participating in the verification of testimony at the crime scene may draw attention of the

inquiry officer, the investigator and the court to anything that is believed to assist in clarification of the case facts, demand repetition of specific actions. The persons under testimony at the crime scene, as well as other process participants may demand additional interrogation thereof in connection with the investigating action.

**Article 134. Protocol of verification of testimony at crime scene**

Upon verification of the testimony at the crime scene, the inquiry officer or the investigator shall draw a protocol and the court shall record the course and results of the verification in the court session protocol in accordance with the rules prescribed in the article 90-92 of this Code.

Such protocol shall also include the location, time and conditions of the verification; the items and sites examined; content of testimony at the crime scene; substance of reproduction of the situation and environment of the event; clarifications by the persons into the previous testimonies.

Chapter 16. Examination

- Article 135. Grounds for examination
- Article 136. General clauses on procedure of examination
- Article 137. Examination of locale
- Article 138. Examination of corpse
- Article 139. Examination of surroundings and premises
- Article 140. Examination of items and documents
- Article 141. Examination protocol

**Article 135. Grounds for examination**

For the purpose of detection of crime signs, exhibits, clarification of situation of an event or other circumstances, important for the case, the inquiry officer, the investigator or the court shall examine the locale, corpse, animals, surroundings, premises, items and documents.

Examination of a human body shall be conducted on the rules of examination and expertise (articles 142-147 and 172-187 of this Code). Examination of post and telegraph items shall be performed on the procedure prescribed in the article 167 of this Code.

Items and documents, detected during **seizure** or search shall be examined according to the rules established for conduct of such investigating actions.



**Article 136. General clauses on procedure of examination**

Examination during interrogation and preliminary investigation shall be conducted in the presence of attesting witnesses. If the necessity to perform examination emerges during court examination, the court shall adopt a respective ruling and examine with participation of the parties.

If found necessary at examination, the inquiry officer, investigator or the court shall apply measurements, photographing, filming, video recording, mapping, charting, sketching, casting and imprinting of traces. Specialists may be involved to assist the examination.

All detected and seized during examination shall be demonstrated to attesting witnesses, parties and other participants of examination.

The persons, participating in examination, may draw attention of the inquiry officer, the investigator and the court to anything believed to assist in clarification of facts on the case.

**Article 137. Examination of locale**

Examination of a locale shall be conducted in the presence of facts that this particular site is the crime scene or contains signs thereof.

In urgent cases examination of a locale shall be permitted before institution of a criminal case. In this event, a resolution on institution of a criminal case or refusal to institute a case shall be adopted not later than seventy two hours, and in extraordinary cases within ten days upon the examination.

Examination of large territories and premises may be performed by several inquiry officers or investigators and actions of each of them shall be performed with participation of at least two attesting witnesses.

The items, documents and traces collected from the locale shall be packed and sealed. Large items shall not be seized and sealed, but the inquiry officer or the investigator shall adopt necessary measures to ensure its safety.

**Article 138. Examination of corpse**

External examination of a corpse at the site of detection shall be conducted by the inquiry officer or the investigator with participation of attesting witnesses and a doctor - specialist in the area of forensic medicine, and if presence of such doctor is impossible - by any doctor. Other specialists and experts may be employed to examine the corpse if required so.

Examination of a corpse at exhumation shall be performed in accordance with the rules prescribed in the articles 148-152 of this Code.

During identification of a corpse at the site of detection, the rules prescribed in the articles 126-131 of this Code shall be applied. Unidentified corpse shall be subject to obligatory dactyloscopy. Other samples for examination may be obtained from a corpse in accordance with the articles 188-191, 193 and 197 of this Code.

Burial of an identified corpse shall be permitted only upon consent of the procurator.

**Article 139. Examination of surroundings and premises**

The inquiry officer, the investigator and the court shall examine locality and premises in accordance with the following rules.

If required to examine a residence of a citizen or an office premise, the inquiry officer or the investigator shall issue a resolution and the court adopt a ruling. The person whose residence must be examined, or a representative of the respective enterprise, institution, and organization shall be familiarized with such resolution or ruling and requested to sign.

During examination at enterprises, institutions and organizations, a presence of a representative of the administration, at military units - representative of the command, and in case of necessity - a materially responsible person, shall be compulsory. While examining premises, the rules, prescribed in the articles 160 and 161 of this Code shall be applied.

**Article 140. Examination of items and documents**

The inquiry officer, the investigator and the court shall examine the items and documents at the site of detection, and consequently, if a longer time or additional technical facilities are required - at the site of interrogation, preliminary investigation or court examination.

Examination may be performed with employment of technical facilities if such do not damage or destroy the item or the document.

**Article 141. Examination protocol**

The inquiry officer or the investigator shall draw a protocol, and the court shall record the course and results of examination in the court

session protocol in accordance with the rules prescribed in the Articles 90-92 of this Code.

The protocol shall include descriptions of anything detected in the same consequence as the course of examination, and in the same state as the detected appeared during the examination. All traces, items and documents detected and seized during the examination shall be listed in the protocol. The owner of the seized item shall be issued a respective certificate or a copy of the protocol.

In addition the protocol shall include description of: time, weather and light conditions during examination; scientific and technical facilities employed and the results obtained; persons involved to provide assistance during the examination and what such assistance included; items and documents sealed and description of the seal; where the corpse and other items important for the case have been sent after the examination.

#### Chapter 17. Observation

Article 142. Grounds for observation

Article 143. Persons subject to observation

Article 144. Resolution or ruling on conducting observation

Article 145. Obligation of resolution or ruling on conducting observation

Article 146. Procedure of observation

Article 147. Observation protocol

#### **Article 142. Grounds for observation**

Observation shall be performed in cases when it is necessary:

- 1) to detect signs, features, particular marks on a human body, information on physical development, spots, scratches, grazes, bruises that are important to the case and no expertise is required;
- 2) to detect the alcoholic intoxication and other physiological states by applying methods that do not require expertise;

#### **Article 143. Persons subject to observation**

A suspect, accused person, defendant or victim may be subject to observation. Observation of a witness shall be permitted only to verify accuracy of his testimony.

#### **Article 144. Resolution or ruling on conducting observation**

In the presence of sufficient information that the body of a suspect, accused person, defendant or victim contains marks of the crime and other

signs related to the case or that he is in an unusual physiological state, an inquiry officer or investigator shall issue a resolution and the court shall adopt a ruling on conducting an observation.

A resolution or ruling shall state: who and with what purpose shall conduct observation; who shall be observed; to whom and when the person shall arrive.

**Article 145. Obligation of resolution or ruling on conducting observation**

Resolutions of inquiry officer, investigator or a ruling by court on observation shall be obligatory for the persons concerned.

The persons evading from observation may be subject to forcible bringing to observation.

**Article 146. Procedure of observation**

A resolution and ruling on conducting observation shall be announced to the person to be observed. All participants of observation shall be explained their rights and responsibilities.

An observation excluding baring, detection of scratches, grazes, bruises shall be conducted by the inquiry officer or investigator with participation of attesting witnesses and if required with involvement of a doctor or specialist. Observation of this type may be performed at the court with participation of the parties.

Observation including baring and related to detection of scratches, grazes, bruises as well as the observation prescribed in the item two of the article 142 of this code, shall be conducted by a doctor or physician - specialist on behalf of the inquiry officer or investigator.

**Article 147. Observation protocol**

The investigator or inquiry officer shall draw a protocol on observation conducted and the court shall record the course and results of observation to the court session protocol in accordance with the rules prescribed in the articles 90-92 of this Code. The protocol shall include description of all actions of the person conducting observation and all marks, signs, features detected during observation.

In case the observation has been performed by a doctor or other specialist, he shall draw and sign the protocol and submit respectively to the inquiry officer, investigator or court after being signed by the person observed and attesting witnesses.

Chapter 18. Exhumation of corpse

- Article 148. Grounds for corpse exhumation  
 Article 149. Procedure for corpse exhumation  
 Article 150. Procedural actions related to corpse exhumation  
 Article 151. Protocol of corpse exhumation  
 Article 152. Burial of corpse after exhumation

**Article 148. Grounds for corpse exhumation**

In case of need to exhume the corpse from a burial place for examination, identification, sampling for investigation or expertise, an inquiry officer, investigator shall issue a resolution to be sanctioned by a procurator. Court may entrust exhumation to interrogation bodies or investigator adopting a respective ruling.

**Article 149. Procedure for corpse exhumation**

An inquiry officer, investigator or court shall conduct a corpse exhumation in agreement with healthcare agencies and in the presence of a representative of the burial place. In case the exhumation is conducted in the course of interrogation or preliminary investigation, participation of attesting witnesses shall be compulsory. The court shall execute exhumation with participation of the parties.

A specialist-doctor in forensic medicine and other specialists if required shall participate in the corpse exhumation. In case the expertise is assigned, participation of forensic doctor-expert in the exhumation shall be compulsory.

In case of need it shall be permitted to admit the suspect, accused person and other persons able to identify the corpse to the exhumation of corpse.

**Article 150. Procedural actions related to corpse exhumation**

In case the exhumation is performed for consequent expertise of the corpse, a respective resolution or ruling on conducting exhumation shall be adopted. The corpse shall be delivered to the expert institution or examined at the place of burial.

Examination, identification and sampling of a corpse for expert investigation shall be performed on the rules, prescribed in the articles 125, 126, 131, 138, 188-191, 193 and 197 of this Code.

**Article 151. Protocol of corpse exhumation**

The investigator or inquiry officer shall draw a protocol on exhumation, and the court shall record the course and results of exhumation in the court session protocol in accordance with the rules prescribed in the articles 90-92 of this Code. Photographs, films and video recording of the grave, coffin, and corpse may be attached to the protocol.

In case the exhumation was followed by examination, identification and sampling for expert investigation, such investigating actions shall be included into a protocol.

**Article 152. Burial of corpse after exhumation**

Burial of a corpse after exhumation and other subsequent procedural actions shall be conducted in the presence of the person whose resolution or ruling determined exhumation of the corpse.

## Chapter 19. Experiment

- Article 153. Grounds for conducting experiment
- Article 154. Resolution or ruling on conducting experiment
- Article 155. Procedure for conducting experiment
- Article 156. Protocol of experiment

**Article 153. Grounds for conducting experiment**

An investigator, inquiry officer, court may verify accuracy of testimony by witnesses, victims, suspects, accused persons, defendants, other evidence and versions emerged on the case, by reproducing individual actions, situation and circumstances of the event investigated and conducting required experiments.

An experiment shall be performed for verification of possibility of perception of some facts, performance of individual actions, occurrence of some events and detection of the mechanism of the event and emergence of traces.

**Article 154. Resolution or ruling on conducting experiment**

The inquiry officer, investigator shall issue a resolution and the court respectively a ruling on conducting the experiment. If the experiment may lead to damage of property of citizens, enterprises, institutions, organizations, alteration of working schedule, timetables and other negative consequences, such resolution of the investigator, inquiry officer shall be sanctioned by the procurator.

The experiment shall not be conducted if violating the public order or morality.

The experiment conducted by an expert shall be the constituent of forensic expertise.

**Article 155. Procedure for conducting experiment**

The inquiry officer or investigator shall conduct an experiment with participation of attesting witnesses and the court with participation of the parties.

An expert and specialist as well as persons conducting experimental actions may also be employed for participation in an experiment. Complex experiments may be performed in the presence of at least two attesting witnesses and several specialists. The persons whose testimony is subject to verification shall also be involved to the experiment. The witnesses and victims shall be notified on accountability for refusal to testify or testify falsely. All participants of the experiment shall be explained the purpose and procedures thereof.

In order to conduct experimental actions, the situation of the investigated event shall be reproduced accurately in accordance with the testimonies and versions verified. For this purpose each suspect, accused person, defendant, victim, witness shall be offered to reproduce the situation and circumstances of the event he participated or witnessed. After that, the investigator, inquiry officer or court shall perform required experimental actions with use of measurements, filming, sound recording, video recording, mapping, scheduling, sketching, experimental casting and imprinting.

The experimental conditions shall be maximally similar to those of at which the reproduced actions and events occurred. Experiments shall be performed repeatedly if possible. Conditions for experiments may vary.

The suspect, accused person, defendant, victim, witnesses, specialist, expert may be asked questions in connection with the experiment. The parties may ask questions to the persons participating in the experiment upon consent of the court. The parties and other persons, participating in the experiment shall be entitled to draw attention of the investigator, inquiry officer and court to what is believed to assist clarification of facts of the case, demand clarification of experimental conditions and repetition of experimental actions. The person whose testimony is verified may demand additional interrogation thereof in connection with the experiment.

**Article 156. Protocol of experiment**

The inquiry officer, investigator shall draw a protocol on the conducted experiment and the court shall record the course and results of the experiment in a court session protocol as prescribed by rules of the articles 90-92 of this Code. The protocol shall also include the following: the purpose, when, where and in what conditions the experiment was conducted; what in particular included reproduction of situation and circumstances of the event; what experimental activities, in what consequence, by whom and how many times; the results obtained.

## Chapter 20. Seizure and search

- Article 157. Grounds for seizure
- Article 158. Grounds for searching
- Article 159. Resolution or ruling on seizure or search
- Article 160. Persons present at seizure or search
- Article 161. Procedure of seizure or search
- Article 162. Personal seizure and search
- Article 163. Protocol of seizure and search
- Article 164. Obligation to present a copy of protocol of seizure and search
- Article 165. Conduct of seizure and search in premises of diplomatic representative office and diplomatic representatives
- Articles 166. Arrest of post and telegraph communications
- Articles 167. Examination and seizure of post and telegraph communications
- Article 168. Disaffirmation of arrest of post and telegraph communications

### **Article 157. Grounds for seizure**

An inquiry officer, investigator and court may conduct a seizure of items and documents related to the criminal case, if informed on where and who has them and there is no need to search for them.

### **Article 158. Grounds for searching**

The investigator, inquiry officer may search if have sufficient information to believe that some living, office, production premises or any other site contain or any person has items and documents important for the case.

A search may be conducted for detection of persons and corpse sought.

### **Article 159. Resolution or ruling on seizure or search**



Seizure and search shall be conducted on a resolution of the inquiry officer or investigator, or ruling of the court, which may authorize the inquiry body or the investigator with conducting such search or seizure.

A resolution or ruling on conducting a seizure or search shall indicate who and where should be subject to search and seizure, what items and documents must be detected and seized.

**Article 160. Persons present at seizure or search**

Attesting witnesses and, if required, a specialist and translator shall participate in the seizure and search.

The person at whose place seizure or search is conducted, or at least one of his adult family members shall be present during seizure and search. In case presence of such persons cannot be ensured, a representative of the respective khokimiyat or citizen's self-governance body.

Seizure and search in the premises of enterprises, institutions, organizations, and military units shall be conducted in the presence of representatives thereof.

The persons searched, attesting witnesses, specialists, representatives of enterprises, institutions, organizations, military units shall be explained, prior to the search and seizure, the right thereof to be present at all actions of the investigator or inquiry officer and make statements with respect to these actions. Such actions shall be included to the protocol.

**-----Article 161. Procedure of seizure or search**

Search shall be performed on a motivated resolution of the investigator or inquiry officer with a sanction of a procurator. In the exigent cases, a search may be performed without a procurator's sanction with consequent communication to the procurator on the search performed within twenty four hours. The exigent cases shall be substantiated in the communication of the investigator or inquiry officer to the procurator. A copy if communication shall be attached to the case file.

An investigator or inquiry officer may enter a residence or other premise for detection of items and documents related to the case on the basis of a resolution or ruling on conducting a seizure or search.

Before seizure or search, an inquiry officer or investigator shall familiarize the person, at whose premises such search or seizure is conducted, with the resolution or ruling, to be consequently signed by this person.

The investigator or inquiry officer may forbid the persons within the premises or any other place, where the search or seizure is conducted, to leave the place or communicate with each other or other persons until the search or seizure is completed.

The inquiry officer, investigator upon presentation of the resolution or ruling shall offer to hand the items or documents to be seized voluntarily and in case of refusal shall seize them forcibly. In case such documents or items have nor been found at the place indicated in the resolution or ruling on seizure, a search shall be performed.

Prior to search, the inquiry officer, investigator shall offer to hand the documents or items to be seized voluntarily upon presentation of the resolution or ruling. In case the sought items and documents are given out voluntarily, a protocol of seizure shall be drawn. In case the sought items and documents have not been surrendered or have been surrendered partially, a search shall be performed. During the search only those items indicated in the respective ruling or resolution shall be seized. In case of detection of other items and documents, connected with the case as well as other items storing of which is prohibited, such items shall also be subject to seizure. The reasons to seize such items and documents by the investigator or inquiry officer shall be recorded to the protocol of search.

All items and documents shall be presented to attesting witnesses, other persons present during seizure and search, fully described in the protocol, and in case of necessity, shall be packed and sealed. Removal of the packing and the seal shall be permitted only in the presence of attesting witnesses.

During search or seizure, the inquiry officer, investigator may unlock premises and storages in case the owner refuses to do so voluntarily. Unnecessary damage of locks, doors and other items and violation of order at the household shall be avoided.

#### Article 162. Personal seizure and search

In the presence of the grounds prescribed in the articles 157and 158 of this Code, the inquiry officer, investigator may seize the items and documents, related to the case, detected in clothes of a person, his body or belongings.

Personal search and seizure shall be conducted in accordance with the rules, prescribed in the articles 157-161 of this Code. Nonetheless, personal search and seizure may be performed without a specific resolution or ruling in the following cases:

- 1) under arrest of a suspect by a militiaman, performing the function on protection of the public order, in the presence of sufficient grounds to believe that the suspect has a weapon or intends to dispose of an evidence revealing commitment of a crime (article 224 of this Code);
- 2) while drawing a protocol of arrest upon delivery of a suspect to militia or any other law-enforcement unit in accordance with the article 225 of this Code;
- 3) while applying preventive punishment of taking the accused person into custody and if there are sufficient grounds to believe that he has a weapon and other items of prohibited storage, as well as other items important for the case;
- 4) in the presence of sufficient grounds to believe that the person in the premise or other places under sought or seizure, conceals the items and documents on himself, that are subject seizure on the resolution or ruling on conducting a search or seizure.

Personal search and seizure of items and documents may be realized by the inquiry officer or investigator with participation of a specialist and witnesses of the same sex with the searched.

#### Article 163. Protocol of seizure and search

The inquiry officer or investigator shall draw a protocol on conducted search and seizure in accordance with the rules, prescribed in the articles 90-92 of this Code. The results of seizure of items and documents conducted by the court shall be reflected in the court session protocol.

A protocol shall indicate the place and circumstances of detection of items and application of a voluntary or forcible surrender of such. All items and documents seized shall be listed in the protocol with an accurate indication of quantity, measures, weight, individual features and in case of necessity shall be packed and sealed.

Cases of attempts to destroy or conceal the items and documents sought during the seizure or search shall be recorded to the protocol with description of measures taken by the inquiry officer or investigator.

#### Article 164. Obligation to present a copy of protocol of seizure and search

A copy of the resolution or ruling on conduct of a search or seizure, or extract from the protocol of the court session shall be presented on receipt to the person subject to seizure or search or an adult member of his family, and in the absence of such - a representative of the

respective khokimiyat or self-governance body of citizens. These persons may be issued copies of the seized documents if necessary.

Article 165. Conduct of seizure and search in premises of diplomatic representative office and diplomatic representatives

Seizure or search in the premises belonging to diplomatic mission or employees thereof with diplomatic immunity, as well as their family members may be performed only at the instance or by approbation of the head of a diplomatic representative office - when searching or seizing at the territory of a diplomatic mission, at the instance or by approbation of employees of a diplomatic mission or their adult family members - when conducting a search or seizure at the occupied residence or other premises. The benefits indicated shall also apply to the foreign representatives non-accredited in the Republic of Uzbekistan that enjoy diplomatic immunity and their family members.

Personal search and seizure may be applied to the person with diplomatic immunity and his family members observing the conditions prescribed in the part one of this article.

Consent of a diplomatic representative and his family members for a search or seizure shall be sought via the Ministry of Foreign Affairs of the Republic of Uzbekistan.

Presence of a procurator or representative of the Ministry of Foreign Affairs of the Republic of Uzbekistan shall be compulsory while performing a search or seizure at the premises occupied by diplomatic missions or the representatives, enjoying diplomatic immunity, and their family members.

Articles 166. Arrest of post and telegraph communications

If sufficient grounds exist to believe that the post and telegraph communications of a suspect, accused person, defendant to other persons, or other persons' communications to a suspect, the accused person, defendant contain information on the committed crime or the documents and items important to the case, the inquiry officer, investigator or court may attach all or individual post and telegraph communications.

Post and telegraph communications that may be attached include: letters of all types, cables, radiograms, printed matters, parcels, post containers.

The inquiry officer and investigator shall issue a resolution on the attachment of post and telegraph communications to be sanctioned by a procurator while the court shall adopt a respective ruling.

A resolution or ruling on the attachment of post and telegraph communications shall include: the last, first and middle name of the person, whose correspondence is subject to attachment; accurate address of the person; types of post and telegraph communications to be attached; the term to maintain the attachment; names of communication offices obliged to withhold the correspondence and inform the inquiry officer and investigator.

A ruling by the court shall contain a directive on delivery of post and telegraph communications to the court by the communication offices.

A resolution or ruling on the attachment of post and telegraph communications shall be obligatory to and addressed to the head of the respective communication office. Non-compliance or disclosure of the resolution or ruling shall entail the established legal responsibility.

The head of a communication office shall detain the correspondence and other communications stated in the resolution of the inquiry officer, investigator or ruling of the court and immediately inform thereon.

#### Articles 167. Examination and seizure of post and telegraph communications

Upon arrival to a communication office the inquiry officer or investigator shall open and examine the post and telegraph communications in the presence of attesting witnesses, and if necessary, in the presence of respective specialist. In case of detection of information, documents, items related to the case, the investigator, inquiry officer shall seize or make a copy of the respective post and telegraph communications. In case of absence of information, documents, items related to the case, the investigator, inquiry officer shall instruct on delivery of the examined correspondence to the addressee or its detention for the term established thereby.

Each case of examination of the attached correspondence shall be followed by the respective protocol that shall include the description of post and telegraph communications examined, items seized, temporarily attached and delivered to the addressee, and the correspondence duplicated. The protocol shall be drawn in accordance with the conditions, prescribed in the articles 90-92 of this Code.

#### Article 168. Disaffirmation of arrest of post and telegraph communications

Attachment of post and telegraph communications shall be cancelled by the inquiry officer, investigator or court, who previously imposed it, when

such measure is no longer relevant. The attachment shall be cancelled at the preliminary investigation upon the removal of criminal case, and at the court of first instance - upon adoption of a ruling on removal of the case or validation of the sentence.

Chapter 21. Wire tapping of conversations via telephone and other communication devices

Articles 169. Grounds for wire tapping of conversations via telephones and other communication devices

Article 170. Procedure for wire tapping of conversations via telephones and other communication devices

Article 171. Protocol of tapping of conversations via telephones and other communication devices

Articles 169. Grounds for wire tapping of conversations via telephones and other communication devices

If the evidence collected on the case form a sufficient ground to believe that information important for a case may be obtained, an investigator, inquiry officer may issue a resolution on tapping conversations performed via telephones or other communication devices.

Article 170. Procedure for tapping of conversations via telephones and other communication devices

Tapping of conversations performed via telephones and other communication devices of a suspect, accused person, defendant shall be realized on a resolution of an investigator, inquiry officer sanctioned by a procurator, or ruling of a court.

In the presence of a threat to assault, blackmail or use other illegal actions with respect to the victim, witness as well as relatives and close people thereof, telephones and other communicating devices may be tapped based on a written statement or verbal consent of such persons and a sanction of the procurator, or on ruling of the court.

In exigent cases, the inquiry officer, investigator may address a resolution on tapping to the national security bodies without a sanction of a procurator, who shall be immediately notified in written. The resolution on tapping, unsanctioned by a procurator shall be valid within one day.

The resolution or ruling on tapping telephones and other communication devices, indicating the character and volume of information to be tapped,

as well as the form for recording of the course and results of conversations, shall be forwarded for execution to units of the national security service. Tapping may not exceed six months in length.

Sound recording shall be applied during tapping telephones and other communication devices. The tape with phonograms of conversations shall be attached to the protocol of investigating action.

Article 171. Protocol of tapping of conversations via telephones and other communication devices

The person performed tapping and sound recording shall draft a protocol with a brief description of the phonogram of conversations related to the case. The phonogram shall be sealed and attached to the case, and the part thereof, irrelevant to the case, shall be destroyed upon validation of the sentence.

A protocol on tapping and sound recording shall indicate the number of the subscriber, times and location of tapping and sound recording, types and models of technical facilities employed, information on the persons in charge and other information important for the case.

Chapter 22. Expert examination

Article 172. Grounds for expert examination

Article 173. Compulsory appointment and conduct of expert examination

Article 174. Persons appointed by experts

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Article 179. Rights of suspect, accused person, defendant during appointment and conducting expert examination

Article 180. Resolution or ruling on appointment expert examination

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Article 183. Conducting expert examination outside of expert institution

Article 184. Conclusion of expert

Article 185. Act on impossibility to issue opinion

Article 186. Interrogation of expert

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Article 172. Grounds for expert examination

Expert commission shall be appointed in cases when information on the facts related to the case, may be obtained by means of additional specific investigation by a person knowledgeable in science, technology, arts or crafts. In case an inquiry officer, investigator, procurator, judge, specialist, attesting witness has such knowledge, expert examination shall still be appointed.

The matters to be examined by an expert and the opinion thereof may not exceed the limits of special knowledge of the expert.

Substitution of the expert examination with the research beyond the procedures prescribed by this code shall not be permitted. Conclusions of departmental inspections, acts of inspections, consultations of specialists shall not exclude the need for expert examination.

#### Article 173. Compulsory appointment and conduct of expert examination

Appointment and conduction of an expert examination shall be compulsory to establish:

- 1) cause of death, nature and weight of bodily harm;
- 2) fact of sexual intercourse, pregnancy and signs of abortion;
- 3) age of a suspect, accused person, defendant, victim in case the documents indicating age are absent or raise doubts;
- 4) mental and physical state of a suspect, accused person, undictée, the person subject to forcible medical measures and abilities thereof to realize and direct own actions at the moment of commitment of an illegal action, as well as ability to realize the meaning of criminal responsibility, testify and protect own rights and legal interests independently during criminal proceedings;
- 5) mental and physical state of the victim, witness and abilities thereof to apprehend, remember and recall the facts related to the case at interrogations as well as ability of the victim protect own rights and legal interests independently during criminal proceedings;
- 6) need and possibility to cure the persons ailing with venereal or other infectious disease, chronic alcoholism and drug addiction;
- 7) presence of narcotics and types thereof;
- 8) fact of counterfeit banknotes, securities and other documents;
- 9) technical reasons of explosions, accidents and other disasters.

Expert examinations shall also be compulsory for clarification of other facts related to the case, if this requires application of special skills and if such facts have not been established reliably with other substantiation methods.

#### Article 174. Persons appointed by experts



Expert examination shall be conducted by specialists of expert institutions or state enterprises, institutions, organizations or other knowledgeable persons appointed by the inquiry officer, investigator or court.

Forensic medicine, forensic psychiatric, forensic psychological, forensic auto-technical, forensic accounting, criminalistic expert examination shall be conducted by the specialists of expert, and in exceptional cases, other state institutions. Exceptionality of the case shall be substantiated in a resolution or ruling on expert examination.

An order of inquiry officer, investigator, court to summon the person appointed the expert, and examination by such person shall be obligatory for the head of the enterprise, institution or organization employing this person.

#### Article 175. Objects of expert examination

The objects to be examined by an expert may include: exhibits and samples for expert examination; other material objects, evidential significance of which shall be established by the expert; body of a live person; state of mentality; corpse; documents.

The objects of acceptable size and nature, subject to expert examination, shall be handed to the expert sealed and packed.

During examination material objects of examination may be damaged or used only in the extent required for such examination. Upon the examination, these objects, if not used fully, shall be returned to the inquiry officer, investigator or court that appointed the examination.

Objects of expert examination shall be stored at expert institutions, interrogation and preliminary investigation bodies, procurator's office and courts in accordance with the rules for storage of material evidence.

#### Article 176. Additional and repeated expert examination

Additional expert examination shall be assigned to meet lacks in the expert's opinion and shall be performed by the same or a different expert.

Repeated expert examination shall be assigned when the expert's opinion is ungrounded or accuracy thereof raises doubts, or the evidence underlying the opinion have been recognized unreliable, or procedural rules of expert examination have been violated.

The expert assigned to perform the repeated examination may be inquired on scientific validity of the previously applied examination methods.

The resolution or ruling on assigning repeated examination shall state motivation for disagreement with the opinion of the first expert examination.

Repeated examination shall be assigned to a different expert. The expert (commission of experts) that has performed the first examination may be present during the repeated expert examination and give explanations but cannot participate in expert research or drawing the opinion.

#### Article 177. Expert examination by commission

Complex examinations may be conducted by commissions of experts of one specialty. Experts may consult with each other and sign an opinion after reaching a general judgment. In case of disputes among the experts, each of them shall issue an individual opinion on all or specific issues that raised such disputes.

An order of an inquiry officer, investigator or court to conduct an expert examination by a commission shall be binding for the head of an expert institution.

If the expert examination has been assigned to an expert institution, the head of this institution shall have the right to organize such expert examination.

Persons not included into the expert commission may not perform expert research be it partially or fully.

#### Article 178. Complex expert examination

If establishment of any fact, related to the criminal case is possible by performing several studies applying various areas of science, a complex expert examination shall be assigned.

On the assumption of the facts, established within the complex expert examination by each of the experts, they shall form a concluding opinion on the fact for establishment of which the expert examination has been assigned.

Each expert, a party to the complex expert examination, independent from the volume and aggregate of the facts he established, shall perform the study independently, account for it and issue an opinion within the scope of own competence.

In case the expert examination has been assigned to the expert institution, organization of complex research shall be assigned to the head of the institution.

Article 179. Rights of suspect, accused person, defendant during appointment and conducting expert examination

During appointment and performing expert examination suspect, accused person, defendant shall have the right to:

- 1) familiarize himself with the resolution or ruling on appointment of the examination and request explanations of his rights, with a protocol to be drawn thereupon or record be entered into the protocol of court session;
- 2) challenge the expert;
- 3) request appointment of an expert from the persons he indicates;
- 4) raise additional matters to be included into the expert's opinion, present additional materials;
- 5) be present, upon the consent of the inquiry officer, investigator, court, at the expert examination, request the expert to explain the main points of the research methods applied and results obtained, give clarifications to the expert.
- 6) familiarize himself with the expert's conclusion and solicit for additional or repeated expert examination.

A person subject to forcible measures of medical nature, if his mental health permits, may also have the rights listed.

Article 180. Resolution or ruling on appointment expert examination

An inquiry officer, investigator shall issue a resolution and court shall adopt a ruling on assigning an expert examination, that states: motives to assign the expert examination; exhibits and other objects sent to the examination, with indication of where, when and under what circumstances detected and seized, and while performing an expert examination on materials of the case - information underlying the expert's opinion; questions put to the expert; name of the expert institution and the last name of person, assigned the expert examination.

In exigent cases, an expert examination may be assigned before initiation of a criminal case.

A resolution or ruling on assigning expert examination shall be binding for persons concerned.

Article 181. Compulsion limits during expert examination

Compulsory use of complex methods for medical examination as well as other methods inflicting strong pain may be allowed only upon a consent of the person subject to the expert examination, and if this person is under the age of sixteen or is mentally defective - upon a consent of his legal representative, tutor or guardian.

Article 182. Conducting expert examination at expert institution

The investigator, inquiry officer or court shall forwards the resolution or ruling on expert examination, the examined object and when necessary, the criminal case to the head of the expert institution. If no expert is specifically mentioned in the resolution, the head of the expert institution shall decide which expert from the given institution will conduct the examination. The inquiry officer, investigator or the court shall be informed in this ruling.

The head of expert institution shall organize the examination, ensure safety of investigation objects, establish period of examination. The head of expert institution may recruit other specialists, not employed by that expert institution, only with the consent of the inquiry officer, investigator or the court that has assigned the expert examination.

Article 183. Conducting expert examination outside of expert institution

If the examination is conducted outside expert institution, the investigator, inquiry officer or court after adopting a resolution or ruling on expert examination summons the person instructed to conduct the investigation, ascertains the identity and competence the latter, clarifies the relation of the expert with the suspect, the accused person, the defendant, the victim and verify whether there are grounds for challenging the expert.

The expert is handed the resolution or ruling on expert examination by the person who appointed the examination, the latter familiarizes the expert with Article 68 of this Code on his rights and duties, notifies him about the responsibility for refusal to issue or issue a deliberately opinion. The statements and petitions by the expert are recorded in the same manner. In case of rejection of the expert's petition, the inquiry officer, investigator or court issues a respective resolution or ruling.

The inquiry officer, investigator or court that appointed the examination shall ensure delivery of the accused person, the suspect, victim, defendant and the witness to the expert when necessity arises to examine his body or mental condition.

Article 184. Opinion of expert

Upon completion of the studies, the expert shall draw a written opinion and certifies it with his signature.

An expert's opinion shall include: his last, middle, first names, background, specialty, experience in the area of specialty; scientific degree and title, position; notification of the expert on criminal responsibility for evasion to issue an opinion or issue a deliberately false opinion; procedural ruling on the grounds of which the expert examination was conducted; persons present during examination; materials of the case used by the expert, exhibits, samples and other objects examined, methods applied and reliability thereof; valid answers to the questions raised and the facts related to the case and established on a initiative of the expert.

Expert's opinion may also state the reasons for the crime and conditions conducive to commit such crime and organizational and technical recommendations to eliminate them.

The exhibits, samples and other objects, photographs, schemes and schedules remaining after the examination shall be attached to the expert's opinion.

Opinion of the expert shall contain a founded refusal to answer specific questions raised in case of insufficiency of the materials presented or inadequacy of expert's special skills during the examination.

Article 185. Act on impossibility to issue opinion

In case the objects presented to an expert are insufficient to perform an examination, he shall request additional materials and, in the absence thereof or inadequacy of expert's specialty knowledge to solve the questions raised, the expert shall prepare a motivated act on impossibility to issue an opinion, addressed to the head of expert institution and the person or body, that assigned the examination.

Article 186. Interrogation of expert

If the expert's opinion is not completely clear or has deficiencies that may be corrected without additional examination, or if necessity to clarify the methods applied by the expert has emerged, the inquiry officer, investigator or court may interrogate the expert in compliance with the rules prescribed in the article 98-108 of this Code.

Article 187. Evaluation of expert's opinion

The expert's opinion shall be evaluated by the inquiry officer, investigator or the court combined with the other evidence gathered on the case, from the point of view of scientific validity and compliance with all procedural rules established for expert examinations.

Expert's opinion does not bear a predetermined substantiation force for the inquiry officer, investigator or the court. Disagreement with the opinion shall be motivated in a resolution or ruling.

If a criminal case involved several expert examinations and the experts divided in opinion, the inquiry officer, investigator or the court shall substantiate his conclusion of agreement with opinions of individual experts and disagreement with the others.

#### Chapter 23. Sampling for expert examination

- Article 188. Types of samples and methods for sampling
- Article 189. Persons and bodies entitled to acquire samples
- Article 190. Persons from who samples may be acquired
- Article 191. Resolution or ruling on sampling
- Article 192. Compulsion limits during sampling
- Article 193. Procedure for acquiring samples by investigator, inquiry officer or court
- Article 194. Procedure for acquiring samples by doctors or other specialists
- Article 195. Acquisition of samples by expert
- Article 196. Protection of personal rights during acquisition of samples
- Article 197. Protocol of sampling

#### Article 188. Types of samples and methods for sampling

Inquiry officer, investigator or court may acquire samples that represent characteristics of a live person, corpse, animal, substance, or expert examination of which may be necessary to solve the raised questions.

Samples that may be acquired from a live person and representing his features include: biological - blood, hair, saliva, excreta; psycho - physical - handwriting, anatomical - skin pattern prints, cast of teeth; and peculiarities of the voice, professional skills. Material samples may be acquired for examination and during observation of a corpse.

Samples of raw materials, ready made products and other materials, representing generic or individual physical or chemical characteristics of a substance.

During examination the expert may produce experimental samples of cases, bullets, burglary instruments, other objects and according to experimental signs he may decide a matter of identity or distinction.

Article 189. Persons and bodies entitled to acquire samples

An inquiry officer, investigator and court, and if needed with an engagement of a doctor, other specialist, expert, may acquire samples for expert examination if not connected with baring of the person, whose samples are acquired and no specific professional skills required.

On the authority of the inquiry officer, investigator or court, the samples for expert examination may be acquired by a doctor or other medical specialist, if such sampling is associated with baring or requires specific professional skills.

Article 190. Persons from whose samples may be acquired

Samples for expert examination may be acquired from a suspect, accused person, defendant, victim as well as the person subject to compulsory measures of medical nature.

In the presence of sufficient information that the signs on the locale or the exhibits may have been left by other persons, the samples for expert examination may be acquired from those persons.

Article 191. Resolution or ruling on sampling

The inquiry officer, investigator shall issue a resolution, and the court - ruling on sampling, that shall state: the body or person to acquire samples; the person whose samples shall be acquired; what samples and respective quantities; when and to whom the person shall arrive for acquisition of samples; to whom and when the samples shall be presented.

Article 192. Compulsion limits during sampling

The suspects, accused persons, defendants, victims, evading from appearance for sample acquisition may be subject to forcible delivery and the samples shall be obtained forcibly if the methods applied thereon are painless and entail no hazard to life and health of the person.

Other persons may be subject to forcible sampling only in the cases prescribed in the article 190 of this code, and for diagnostics of venereal and other infectious diseases.

Article 193. Procedure for acquiring samples by investigator, inquiry officer or court

The inquiry officer or investigator shall summon the person or arrive to the location place of the person and familiarize that person with the resolution or ruling on acquisition of samples on receipt of the person, explain the rights and responsibilities to the person, specialist, attesting witnesses, resolve challenges if such emerge. The investigator or inquiry officer shall perform required actions and acquire samples for expert examination. Only scientific and technical facilities that are painless and safe for the health and life of the person may be applied during such examination.

Acquisition of samples from a corpse and seizure of samples of raw materials, products, other materials shall be performed via exhumation, seizure or search respectively.

The samples acquired shall be packed and sealed. The investigator or inquiry officer shall forward the samples to the respective expert. If sample acquisition has been conducted on the court ruling, the inquiry officer or investigator who executed such ruling shall forward the samples to the court with the respective acquisition protocol. The court, along with the parties, shall observe the samples, verify authenticity and safety and forward the samples along with that ruling and protocol of receipt to the respective expert.

Article 194. Procedure for acquiring samples by doctors or other specialists

The inquiry officer, investigator or the court shall send the respective person, resolution or ruling on receipt of samples to the doctor or other specialist. A challenge to a doctor or other specialist, attesting witness shall be resolved by the investigator, inquiry officer or the court that adopted the respective ruling or resolution.

The doctor or other specialist shall perform required actions and obtain samples for expert scrutiny. Only scientific and technical facilities that are painless and safe for the health and life of the person may be applied during such examination. The samples shall be packed, sealed and forwarded to the inquiry officer, investigator or court.

In case of a need to acquire samples of an animal, the inquiry officer, investigator or the court shall send a respective resolution or ruling to a veterinary or other specialist.

Article 195. Acquisition of samples by expert

During examination the expert may produce experimental samples as provided for in the part four of the article 188 of this Code.



The inquiry officer or investigator may attend production of such samples and this shall be recorded to the protocol.

Upon the examination the expert shall attach packed samples to the opinion.

The inquiry officer or investigator, or the court during legal proceedings observe the experimental samples presented by the expert and attach them to the criminal case as evidence.

Article 196. Protection of personal rights during acquisition of samples

Methods, scientific and technical facilities of sampling for expert examination shall be safe for the health and life of a person. Application of complex medical procedures or methods, that cause strong pain may be allowed only upon permission of the person, subject to acquiring samples, and if such person is below the age of sixteen or ailing with a mental disease, with the permission of his legal representative, tutor or guardian.

A doctor, specialist, attesting witnesses shall be of the same sex with the person, whose samples are acquired and if acquisition of which entails baring of the body.

Article 197. Protocol of sampling

The inquiry officer or investigator shall draw a protocol on acquisition of samples and the court shall record the samples obtained in the protocol of court session according to the rules provided for in the article 90-92 of this Code.

Chapter 24. Presentation of items and documents

Article 198. Presentation of items on initiative of persons owning to inquiry officer, investigator, court

Article 199. Presentation of items on request of inquiry officer, investigator and court

Article 200. Presentation of documents on initiative of persons owning to inquiry officer, investigator, court

Article 201. Presentation of documents on request of inquiry officer, investigator and court

Article 202. Protocol of presentation of items and documents

Article 198. Presentation of items on initiative of persons owning to inquiry officer, investigator, court

Citizens, officials of enterprises, institutions, organizations may present the items believed to be of importance to the case to the inquiry officer, investigator or the court.

Inquiry officer, investigator or court shall observe the item presented as provided for in the rules of the articles 136, 137, 139 and 140 of this Code and acquire the item if considers that the item has, or may have in future, importance to the case. The items irrelevant to the given case, but legally withdrawn from circulation (weapons, narcotic substances, pornographic editions and others) shall also be acquired.

In the event of presentation of an item irrelevant to the case and not withdrawn from circulation, the inquiry officer, investigator or court shall immediately return the item to the owner upon observation.

Article 199. Presentation of items on request of inquiry officer, investigator and court

The inquiry officer, investigator or the court may request that head of an enterprise, institution, organization as well as citizens, present the items required for temporary use during investigating or legal actions, without seizure or search. Such items include:

- 1) items - analogues or dummies for reproduction of scenery and conditions of the event investigated, during an experiment;
- 2) items identical to the item, presented for identification;
- 3) devices, instruments, appliances, materials to be employed during investigating or legal actions or expert examination and not possessed by the inquiry officer, investigator or the court or the specialist, expert or expert institution acting on their behalf. Such items no longer needed shall be immediately returned to the owner.

Article 200. Presentation of documents on initiative of persons owning to inquiry officer, investigator, court

Citizens, officials of enterprises, institutions, organizations shall have the right to present the documents in their possession or those, specially prepared on the basis of information available, to the inquiry officer, investigator or court.

Article 201. Presentation of documents on request of inquiry officer, investigator and court

Officials of enterprises, institutions, organizations shall present the documents in their possession or those specially prepared on the basis of

information available, ordered by the inquiry officer, investigator or court.

Officials of enterprises, institutions, organizations, if requested by the inquiry officer, investigator or court, shall perform a inspection of documents or other official control within own competence and present the inspection or examination report with accompanying attachments within the established terms.

In case that the inquiry officer, investigator or the court reveals deviation from the established rules, flaws and other deficiencies, he may demand correction of such errors.

#### Article 202. Protocol of presentation of items and documents

The inquiry officer, investigator shall draw a protocol and the court shall enter a note to the protocol of court session on presentation of the items and documents that may serve as exhibits in accordance with the rules provided in the articles 90-92 of this Code.

The protocol shall include:

- 1) information on the person that presented an item or document;
- 2) application of the person on attachment of the item or the document to the case;
- 3) course and results of the observation of the document or the item; and examination of packaging if delivered by mail;
- 4) actual delivery of the item or the document to the inquiry officer, investigator or the court, or return to the person that delivered the item or document.

The person who presented the item or the document, which is, or may be important as an exhibit, shall be issued a copy of the protocol by the investigator or inquiry officer or the extract from the protocol of court session by the chairman of the court session.

If the acquired document or item has been delivered by mail, a copy of the protocol or the extract from the protocol shall be sent to the sender and the post receipt shall be attached to the protocol. The receipt shall be attached to the protocol also in the case that the document or item, delivered by mail, has been found irrelevant to the case by the investigator, inquiry officer and been returned to the sender by mail.

In case of refusal to satisfy the application to attach the item or document presented as an exhibit to the case, the inquiry officer, investigator shall issue a resolution and the court respectively a ruling. Reports on inspections and official control as well as other

documents, submitted as written evidence shall be attached to the case without special registration.

Receipt and return of items, requested for temporary use during legal or investigating actions, shall be registered with receipts issued by the inquiry officer, investigator, chairman or clerk of the court session and the owner of the items. Features, characteristics, technical properties of these items that may be related to the case, shall be stated in the protocol of investigating action or protocol of the court session, during which these items were used.

Chapter 25. Addition of items and documents to case as material and written evidence

Article 203. Material evidence

Article 204. Written evidence

Article 205. Methods of acquisition of material and written evidence

Article 206. Observation of material evidence

Article 207. Recognition of items as material evidence and addition to criminal case

Article 208. Storage and transportation of material evidence

Article 209. Submission of money, securities, currency valuables and jewelry for storage

Article 210. Rulings on material evidence acquired until completion of proceedings on the criminal case

Article 211. Rulings on material evidence acquired due to completion of proceedings on the criminal case

Article 212. Responsibility for damage or loss of material evidence

Article 203. Material evidence

Material evidence means an item with physical signs or marks, that may represent its origin, belonging to a person, actual use or usability for specific purposes, transference of this item, exposure to some substances, items, processes and events and other properties and signs indicating facts of the case.

Article 204. Written evidence

Written evidence means a document or other record in a verbal, digital, graphical or other symbol form, produced by an official or citizen and designated to store, transform and transfer information that may be relevant to a case.

Written evidence also include protocols of inquiry officery actions, protocols of courts sessions and attachments thereto.

Documents and other records with signs, marks, traces as stated in the article 203 of this Code may also be considered material evidence.

Article 205. Methods of acquisition of material and written evidence

Items, documents and other records, employed as written and material evidence may be acquired during observation of locale or other sites, premises, presentation for identification, examination, exhumation of corpses, sampling for expert investigation, verification of testimony at the scene, seizure, search or experiment, or may be presented to an investigator, inquiry officer or court in the order prescribed in the article 198-202 of this Code.

Article 206. Observation of material evidence

The items detected, seized or acquired from other persons shall be subject to immediate examination as per the rules of the articles 135-137, 139 and 140 of this Code.

During examination, the signs that allow to conclude on relevance of the item to the case and individualize the item shall be established.

Course and results of examination shall be recorded in the protocol of investigating action or the court session protocol, during which the item was acquired.

Article 207. Recognition of items as material evidence and addition to criminal case

The inquiry officer, investigator shall issue a resolution, and the court shall adopt a ruling on recognition of the item as material evidence and addition to the criminal case. Such resolution or ruling shall include the statement of whether the exhibit remains attached to the case or is submitted for storage.

Article 208. Storage and transportation of material evidence

During storage and transportation of material evidence to expert examination or transfer of the criminal case to a different inquiry officery body, procurator or court, all measures preventing from loss, injure, damage, contact or mixing of exhibits shall be adopted.

During transfer of the case, all accompanying exhibits shall be listed in a covering letter or schedule. Additionally, a certificate to the indictment shall list all material evidence involved in the case and detection location for each exhibit.

In case of delivery of material evidence by mail or by courier, the inquiry officer, investigator or court, along with attesting witnesses and, if necessary, along with experts and specialists shall examine and compare the evidence received with the accompanying cover letter or schedule. The course and results of examination shall be entered to a respective protocol.

Material evidence shall be stored until the matter thereon is resolved by a valid verdict, ruling of the court or resolution of the investigator, inquiry officer on discontinuance.

The case of a dispute on the right for the item, added to the case as an exhibit, shall be considered in the course of civil court proceedings and such item shall be stored until validation of the judgment on civil case.

Article 209. Submission of money, securities, currency valuables and jewelry for storage

Money, securities, currency valuables, jewelry and other items from precious stones, scraps of such items, added to the case as material evidence shall be examined by a specialist upon detection and submitted for storage in the established order.

The money, seized or acquired as provision against a civil suit or possible confiscation of property or as a deposit shall be submitted to the deposit account of the respective inquiry officery body within a three day term.

Article 210. Rulings on material evidence acquired until completion of proceedings on the criminal case

Upon completion of the inquiry officery actions, the following material evidence shall be immediately returned to the owners: perishable items necessary in daily life, livestock, poultry and other animals.

If the legal owner of proprietor of the perishable items or livestock, poultry, other animals is unknown or return thereof is impossible due to other reasons, they shall be submitted to respective enterprises, organizations for foddering and use for intended purposes.

Article 211. Rulings on material evidence acquired due to completion of proceedings on the criminal case

The sentence, as well as resolution or ruling on discontinuance of the criminal case shall include resolutions on material evidence in accordance with the following rules:

- 1) the tool of a crime that belongs to the suspect, accused person, defendant shall be confiscated and submitted to respective institutions or destroyed;
- 2) the items, withdrawn from circulation, shall be submitted to respective institutions or destroyed;
- 3) the items of no value shall be destroyed or, if requested by the persons or institutions concerned, may be returned;
- 4) the money and other valuables, withdrawn from legal possession and ownership as a result of a crime or other illegal actions shall be returned to legal owners, proprietors or assignees and heirs;
- 5) the money and other valuables attained illegally shall be directed to compensate the property damage caused by the crime and, in case the person that incurred the property damage is unknown, shall be directed to the state income;
- 6) the documents employed as material evidence shall remain within the case during the whole storage term or be transferred to the persons or institutions concerned.

Article 212. Responsibility for damage or loss of material evidence

Value of the item, damaged or lost during expert examination or other legal actions, shall be charged to legal expenses.

Upon pronouncement of sentence, the value of such item, if belonged to the convicted or civil defendant, shall not be refunded; if such item belonged to a different person, the respective value shall be compensated to the person by the court and simultaneously recovered from the convicted person or civil defendant to the state income.

After pronouncement of the not-guilty verdict or discontinuance of the case, the value of the item damaged or lost during expert examination or other legal actions, shall be recovered to the legal owner or proprietor or their heirs and assignees, independent from their procedural status.

In all other cases of damage and loss of material evidence, the value thereof shall be compensated in accordance with the rules of the civil law on circumstances emerging from damnification.

## **Section Four**

### **Procedural coercion**

Chapter 26. Grounds and limitations for restriction of personal rights in the criminal procedure

Article 213. Grounds for the enforcement of the measures of procedural coercion

Article 214. Legitimacy and validity of the measures of procedural coercion

Article 215. Treatment of persons detained, kept in custody or committed to a medical institution.

Article 216. Rights and responsibilities of the administration of the facilities where the procedural coercion is executed

Article 217. Notification on the enforcement of a measure of procedural coercion

Article 218. Care for dependents and protection of property of the person detained, put under custody or in the medical facility

Article 219. Mandatory status of procurator's instructions on the enforcement of the measures of procedural coercion

***Article 213. Grounds for the enforcement of procedural coercion***

In cases and under the procedure stipulated by the present Code, the inquiry officer, investigating officer, procurator, and the court are entitled to enforce the measures of procedural coercion if a participant of the criminal proceeding hinders investigating or judicial actions, fails to fulfill the responsibilities laid upon him, and, if necessary, to cease further criminal activity of the suspect or accused and provide for the execution of the court sentence.

***Article 214. Legitimacy and validity of measures of procedural coercion***

Enforcement of the measures of procedural coercion is only possible under the grounds and procedure prescribed by the law.

If not stipulated otherwise by the present Code, procedural coercion is enforced only if criminal case is opened and only with regard to persons indicated in the resolution of the inquiry officer, investigator, procurator, or in the ruling of the court.

***Article 215. Treatment of persons detained, placed in custody or in a medical institution.***

Persons detained, kept in custody, or committed to a medical facility for examination are entitled to rights and bear responsibilities stipulated by the law with limitations coming out of the regime of custody.

Inhuman treatment of persons detained, kept in custody, or committed to a medical facility is impermissible.

A person detained, kept in custody, or committed to a medical institution shall be provided with the possibility of meeting with his or her defense



lawyer in private, and shall be able to use legal resources and have paper and stationery at his or her disposal for writing complaints, motions, or other procedural documents.

**Article 216. Rights and responsibilities of the administration of the facilities where procedural coercion is executed**

The administration of detention institutions shall have the right to: control correspondence of detained and arrested persons, with the exception of complaints and appeals addressed to the inquiry officer, investigator, procurator, or court; examine parcels consigned to them; execute personal searches, take fingerprints and photographs of the indicated persons; take away and store money, valuables, as well as objects that, in compliance with law, the detained and arrested are not entitled to possess, use, or dispose of; deter communication between persons suspected or charged in the same criminal case.

The administration of the detention institutions shall be responsible for the following: to provide a detained or arrested person with the necessary conditions for unimpeded and confidential meetings and counseling with their lawyer; to provide for handing copies of sentences and court rulings to the arrested on the day of receipt; to forward complaints, appeals, letters of the detained and arrested person not later than the following day after handing these to the administration; on the basis of the instruction of the inquiry officer, investigator, procurator, or the ruling of the court, to provide for the transfer of persons in custody to an isolation ward located on the territory of a different jurisdiction; to release the detained immediately upon the expiration of the detention term; to notify in writing the head of the investigative body or the procurator respectively twelve hours before the expiration of the detention period and seven days before the expiration of the term of custody. (In the edition of the Law of the Republic of Uzbekistan of April 15 1999 - Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1999 No 5, p. 124).

**Article 217. Notification on the enforcement of procedural coercion**

After having enforced procedural coercion against the suspect, accused, or defendant, in the form of detention, placement in custody, or commitment to a medical institution for forensic examination, the inquiry officer, investigator, procurator, or court shall be obliged to notify someone from the family, or in the absence of such, relatives or persons close to the detainee, and inform the place of employment or study of the detainee within 24 hours after the enforcement of procedural coercion.

If the detainee is a citizen of another state, the Ministry of Foreign Affairs of the Republic of Uzbekistan shall be notified within the

indicated term. A copy of the notification letter shall be attached to the case file.

**Article 218. Care of dependents and protection of property of the person detained, placed in custody or committed to a medical institution**

If a person detained or placed in custody or committed to a medical institution for a forensic examination has minor children, elderly parents, or other dependents left without attendance and help, the inquiry officer, investigator, procurator or court shall be obliged to transfer them to the charge of relatives or other people or agencies; in case the detainee subject to procedural coercion has property or a home left unattended, measures shall be undertaken towards the protection of those.

**Article 219. Mandatory status of procurator's instructions on the enforcement of procedural coercion**

Procurator's instructions on the enforcement of procedural coercion are mandatory for the inquiry officer and investigator. Objections to the instructions may be presented to the higher procurator in the procedure prescribed by articles 36 and 39 of this Code.

**Chapter 27. Arrest**

Article 220. Purpose of arrest

Article 221. Grounds for arrest

Article 222. Persons entitled to detain the suspect prior to filing a criminal charge

Article 223. Persons entitled to immunity at the time of arrest

Article 224. Procedure of arrest before filing a criminal charge

Article 225. Writing up a report and check of validity of detention

Article 226. Time limits of arrest

Article 227. Arrest pursuant to the resolution of the inquiry officer, investigator, procurator or upon the ruling of the court

Article 228. Detention institutions for arrestees

Article 229. Rights and responsibilities of detainees

Article 230. Granting meetings for detainees

Article 231. Order of forwarding detainees' complaints and appeals

Article 232. Material liability of detainees

Article 233. Ensuring order and security in the detention institutions

Article 234. Grounds and order of release of arrestees

Article 235. Indemnification of the damage incurred by detention

**Article 220. Purpose of arrest**

Arrest is the short-term deprivation of liberty of a person suspected of committing a crime, with the aim of ceasing his criminal activity or preventing an escape or concealment or destruction of evidence by him.

Arrest may be enforced prior to initiation of a criminal case as well as afterwards. In the latter case arrest is permissible only pursuant to the resolution of the inquiry officer, investigator, procurator or the ruling of the court.

#### **Article 221. Grounds for arrest**

A person suspected of committing a crime may be arrested on the following grounds, if:

- 1) he is caught during the course or immediately after committing a crime;
- 2) an eyewitnesses, including a victims, directly points at the person as the one who committed the crime;
- 3) clear traces of the crime are found on the person's body or clothes, or with him or in his home.
- 4) information exists to provide grounds to suspect a person of having committed a crime, and if he has attempted to flee or has no permanent residence, or if his identity has not been established.

#### **Article 222. Persons competent to detain a suspect prior to initiation of a criminal case**

An officer of militia or of another inquiry agency, as well as any legal person has the right to detain and bring to the nearest militia station or to other law enforcement agency a person suspected by him of committing a crime if the grounds indicated in article 221 of this Code are present.

#### **Article 223. Persons entitled to immunity at the time of arrest**

People's deputies, judges, and procurators cannot be detained and brought to militia or other law enforcement agency. This prohibition does not cover arrest as stipulated in point 1 of article 221 of this Code.

#### **Article 224. Procedure of arrest before filing a criminal charge**

Having determined the presence of one of the grounds for arrest specified by Article 221 of this Code directly or from the words of eyewitnesses, a militia officer or other competent person or a citizen shall be obligated to inform the suspect that he is detained for committing a crime and

demand that he go to the nearest police station or other law enforcement agency. The detaining person must identify himself and, pursuant to the request of the detainee, produce an identification document.

The detaining competent person shall have the right to conduct a personal search or seizure if there are sufficient grounds to presume that the detainee has a weapon on him or intends to dispose of evidence incriminating him of committing the crime. The report of personal search or seizure can be drawn up upon bringing the detainee to the militia station or other law enforcement agency in the presence of attesting witnesses.

Competent persons and citizens who execute the arrest shall be subject to liability in compliance with law if the arrest undertaken by them is found unlawful or ungrounded or they have exceeded their powers.

#### **Article 225. Writing up a report and check of validity of arrest**

Immediately after the detainee has been brought to a militia station or other law enforcement agency, an officer on duty or other law enforcement officer as per the instruction of the head of the body shall have to draw up a report of arrest indicating who was detained, by whom, when, under what circumstances, and upon what legal grounds; what crime he is suspected to have committed; and when he was brought to the militia station or other law enforcement agency. The report must be certified with the signatures of the militia officers or an officer of another law enforcement agency who is assigned to check the validity of arrest, a competent person or a citizen who executed the arrest, the detainee and attesting witnesses.

The check of the validity, request for, and examination of documents shall be conducted within 24 hours from the moment of bringing the detainee to the militia station or other law enforcement agency.

In the event of groundless arrest, the head of the militia station or other competent person shall issue a resolution on the release of the detainee. The copy of the resolution shall be immediately forwarded to the procurator.

Resolutions regarding arrest, filing a criminal charge, bringing to the case as a suspect shall be immediately announced to the suspect, who shall be at the same time told of the rights stipulated by article 48 of this Code. The fact that the suspect has been advised of the resolution and his own rights shall be noted in the resolution and certified by signatures of the competent person and the detainee. Herewith, the

detainee shall be subject to inquiry within 24 hours from the moment of having been brought to the law enforcement agency.

**Article 226. Time limits of arrest**

Arrest shall not exceed 72 hours from the moment of bringing arrestee to the militia station or other law enforcement agency.

Before the expiration of the time limit for initial detention and if there are grounds the person must be recognized as an accused in the case, the accusation shall be delivered to him, he shall be questioned in accordance with the rules of articles 109-112 of the present Code and the question concerning election of constraint measures shall be decided as prescribed by articles 236-240 of the present Code.

In exceptional cases and with the procurator's warrant, placing into custody as a constraint measure can be enforced in respect of a suspect, whereby the suspect shall be delivered with accusation within 10 days from the moment of arrest. Otherwise the constraint measure shall be cancelled and the person shall be released from the custody. Upon initiation of the criminal case and during the entire period of initial detention, the inquiry officer and investigator in charge of the case may conduct within the scope of their competence the investigating actions to ascertain circumstances of the crime, and check whether arrest is grounded.

**Article 227. Arrest pursuant to the resolution of the inquiry officer, investigator, procurator or upon the ruling of the court**

Pursuant to the resolution of the inquiry officer, investigator, procurator or ruling of the court regarding arrest, bringing to the case as a suspect, the militia officer or the employee of another law enforcement agency as per the rules of article 224 of this Code shall have to immediately deliver the detainee to the nearest militia station or other law enforcement agency. The official person or the court that issued the resolution or the ruling regarding arrest shall be informed immediately that the arrest has been enforced.

If an absconding accused is detained and there is not a resolution regarding commitment to custody as a constraint measure for him, the district (town) procurator where the arrest was enacted shall have the right to issue a resolution regarding arrest for the time period necessary for delivering the accused to the location of the investigative proceeding; this time period shall not exceed 10 days. Before issuing the resolution the procurator shall have to conduct an examination of the detainee.

Time period counting from the moment of factual arrest of the suspect is included in the time limit of custodial commitment of the accused and in the time limit of the punishment as per the correlation provided by article 62 of the Criminal Code.

#### **Article 228. Detention institutions**

Upon the delivery of the detainee to the militia station or other law enforcement agency, he shall be kept in the service premises that are not considered to be facilities of liberty deprivation, or is put in the isolation ward of temporary commitment, the detained military serviceman shall be put in the guardroom.

In certain locations by way of exception it shall be permissible to place detainees in premises specially accommodated for that purpose, on the ships they are put in specially allocated cabins.

In the punishment execution colonies special wards shall be accommodated for detainees.

Placement of detainees in disciplinary cells and lock-ups shall be prohibited.

The detainees shall be kept separately from people who are placed in custody as a measure of constraint or serving the punishment under the sentence. People detained as suspect of having committed a crime shall be placed in wards for detainees with the observance of the following requirements for isolation:

Men shall be placed separately from women;

Juveniles - separately from adults; in exceptional cases with the procurator's sanction it is possible to place adults in the wards where juveniles are kept;

especially dangerous habitual criminals shall be placed separately from other persons.

Persons detained on suspicion of committing the same crime shall be placed separately as per the written instruction of the inquiry officer, investigator, or procurator. Under the written instruction of the inquiry officer, investigator, or procurator the detainees can be placed separately due to other reasons as well.

#### Article 229. Rights and responsibilities of detainees

A person, detained under the suspicion of having committed a crime shall have rights and responsibilities as per the article 48 of this Code.

Besides, he shall have the rights to use own clothes, footwear, other necessary things stipulated by law.

Persons detained under the suspicion of having committed a crime shall be contained in adequate conditions in compliance with the sanitary-hygienic rules set by the Ministry of Healthcare and Ministry of Internal Affairs of the Republic of Uzbekistan.

Medical service for the detained, medical-prophylactic activity in the detention institutions shall be managed and conducted as determined by the law.

Detainees shall be provided with food, sleeping place and other kinds of the necessary material conditions of life for free.

#### **Article 230. Granting meetings for detainees**

Meetings of detainees with their relatives and other persons shall be granted only by the written permission of the investigator or inquiry officer in charge of the materials regarding detention.

#### **Article 231. Forwarding procedure of detainees' complaints and appeals**

Complaints and appeals of persons detained under the suspicion of having committed a crime addressed to procurator, investigator or inquiry officer shall be handed to them.

Complaints and appeals addressed to other persons and agencies shall also be handed to the investigator or inquiry officer, who shall examine them and forward as per the address. Complaints and appeals related to actions and rulings of the investigator or inquiry officer shall be forwarded to the head of the investigative agency or the procurator. Complaints and appeals containing information whose dissemination may harm the determination of truth in the criminal proceeding shall not be forwarded to the addressee and the sender of the complaint or an appeal shall be notified of this as well as the procurator.

#### **Article 232. Material liability of detainees**

Persons detained under the suspicion of having committed a crime bear the material responsibility for the damage inflicted by them to the state during their stay in detention institutions in the process and amount prescribed by law.

Article 233. Ensuring order and security in the detention institutions

Ensuring order and security in detention institutions shall be the responsibility of the administration of the detention institution that performs its activity as per this Chapter of the Code and other legislative acts.

It is permissible to impose the use of handcuffs to persons detained under suspicion in having committed a crime if they show violence, physical resistance to the employees of the detention institutions, or perform other violent actions and a report shall be drawn up to reflect that. This may be done to prevent the infliction of harm to persons surrounding them or to oneself. If necessary such persons may be placed separately from other detainees by the procedure determined by the internal management rules of the detention institution.

#### **Article 234. Grounds and procedure for release of detainees**

Persons detained under suspicion of having committed a crime shall be released if:

- 1) the suspicion of a committed crime is not confirmed;
- 2) there is absence of necessity in the application of custodial placement as a means of constraint in relation to the detainee;
- 3) time limit for detention is expired.

Pursuant to the resolution of the inquiry officer, investigator, procurator, or ruling of the court the head of the detention institution shall execute release of the detainee. Resolution or ruling on the release shall be executed immediately upon the receipt of the document by the detention institution.

Having determined the fact of absence of grounds for further detention, the inquiry officer or investigator shall have to immediately release the detainee.

If the resolution of the procurator, investigator, or inquiry officer regarding the release of the detainee or the use of custodial placement as a measure of constraint has not been received by the detention institution within the time limit of detention, the head of the detention institution shall release the person and forward the notification of release to the procurator, investigator, or inquiry officer.

If necessary the administration of the detention institution shall provide the released persons with free travel to the residence location; shall issue a reference certifying the time period spent in the detention institution should such document requested.



**Article 235. Indemnification of the damage incurred by detention**

Damage inflicted to the detainee by the unlawful detention shall be entirely indemnified if an acquittal was granted or the case was dismissed upon the grounds stipulated by article 83 of this Code.

**Chapter 28. Measures of constraint**

Article 236. Purposes and grounds of imposition of the constraint measures

Article 237. Types of constraint measures

Article 238. Circumstances accounting for the choice of constraint measures

Article 239. Persons in respect of whom constraint can be used

Article 240. Resolution or court ruling on application, cancellation, and change of the constraint measures

Article 241. Appeal regarding the constraint measure

Article 242. Custodial placement

Article 243. Procedure of application of custodial placement as a constraint measure

Article 244. Custodial institutions

Article 245. Time limits for custodial placement

Article 246. Count of the time period of custodial placement when the criminal case is recommitted for additional investigation

Article 247. Procedure of extension of the time period of custodial placement

Article 248. Indemnification of damage incurred by unlawful custodial placement

Article 249. Bail

Article 250. Recognizance of due conduct

Article 251. Personal guarantee

Article 252. Guarantee of a public association or colleagues

Article 253. Handing over of the minor to the attendance

Article 254. Supervision of the military management over the conduct of a military serviceman

**Article 236. Purposes and grounds of imposition of the constraint measures**

Constraint measures shall be imposed to prevent an accused, a defendant to evade from inquiry, pre-trial investigation and trial; to cease his further criminal activity; to impede his attempts to hinder the

ascertaining of truth on the case; to provide for the execution of the sentence.

Election of detention as a constraint measure may be based on a grounded assumption that the accused or defendant would escape from inquiry, pre-trial investigation, and trial simply because of the committed crime's grievance, which is stipulated by the paragraphs four and five of article 15 of the Criminal Code of Uzbekistan.

With regard to persons pending commitment to a medical institution for expert's examination as well as to persons recognized as insane or became mentally sick after having committed a crime, the constraint measures can be imposed in order to prevent their escape and commission of other actions dangerous to society as well as to ensure the execution of the court's ruling on imposition of the coercive measures of medical character.

***Article 237. Types of constraint measures***

Constraint measures shall be as follows: 'the signed statement to behave', 'personal guarantee' or 'guarantee of a civic organization or collectives', 'bail', 'placing into custody', 'placing of a juvenile under supervision', 'supervision of a military commanders over a military trooper'. A person may be subjected only to one constraint measure out of the aforementioned.

***Article 238. Circumstances accounting for the election of constraint measures***

While considering necessity of election of one or another constraint measure, an inquiry officer, investigator, procurator, or court shall take into account the gravity of accusation, personality of the accused, type of his activity, age, health condition, family status, and other circumstances along with the grounds stipulated in article 236 of the present Code.

***Article 239. Persons against whom constraint measures can be imposed***

A constraint measure may be imposed only against the accused, defendants and persons recognized as mentally disturbed or fallen with psychiatric disease after having committed the crime.

A constraint measure such as placement into custody (detention pending trial) may be imposed on:

- 1) a deputy (member) of the Oliy Majlis (parliament) of the Republic of Uzbekistan, deputy (member) of Jokarghy Kenes (parliament) of the Republic of Karakalpakstan, deputies (members) of the regional, district, and city Councils of people's representatives under procedure prescribed by legislation;
- 2) judge of the Constitutional Court of the Republic of Uzbekistan - with the consent of the Constitutional Court of the Republic of Uzbekistan; judges of other courts of the Republic of Uzbekistan - with the consent of the Plenum of the Supreme Court of the Republic of Uzbekistan or Plenum of the Highest Economical Court of the Republic of Uzbekistan respectively;
- 3) procurator and investigator of the procurator office - with the consent of the General Procurator of the Republic of Uzbekistan.

***Article 240. Resolution or ruling regarding imposition, cancellation, and change of a constraint measure***

Constraint measures can be imposed, cancelled, and changed by a resolution of the inquiry officer, investigator, procurator, and the ruling of the court.

The resolution or the ruling regarding the imposition, cancellation, change of the constraint measure shall contain the following: information about a crime in committing of which a person is accused of; reference to the grounds stipulated by law for imposition of a constraint measure, or reference to the absence or the change of such grounds with due provision of evidence; arguments explaining the necessity of imposition, cancellation, or change of the constraint measure with the account of the prescribed by law circumstances affecting the choice of the constraint measure. Resolution or ruling shall be communicated immediately to a person in whose respect it is issued with the exception of instances whereby the communication is impeded by the person's heavy disease or his escape.

***Article 241. Complaint about constraint measure***

A constraint measure, which was elected during the course of pre-trial investigation, may be complained to a procurator, who supervises over investigation and who shall have the right to cancel or change it. The procurator shall consider the complaint within three days from the moment of its receipt thereof and shall notify the person who filed the complaint about his decision.

***Article 242. Placement into custody (detention pending trial)***

Placement into detention pending trial as a constraint measure shall be imposed during the course of proceedings over the cases on crimes, committing of which, according to the Criminal Code, entail deprivation of liberty for the term longer than one year as a punishment. In exceptional cases this constraint measure may be imposed for crimes that envisage deprivation of liberty for the term shorter than one year as a punishment.

**Article 243. Procedure of application of custodial placement as a constraint measure**

Constraint measure in the form of custodial placement may be used only for a detained suspect or an accused.

(In the edition of the Law of the Republic of Uzbekistan of 27 December 1996 - Bulletin of the Oliy Majlis, 1997, No. 2, p.56).

The right to issue a sanction for arrest of citizens shall belong to the Attorney General of the Republic of Uzbekistan, Procurator of the Republic of Karakalpakstan, their deputies, procurators of the regions, of the city of Tashkent, procurators and deputy procurators equaled to them and the district (city) procurators and other procurators equaled to them.

In the resolution regarding the authorization of arrest the procurator shall be obliged to thoroughly familiarize oneself with the case materials, if necessary, shall interrogate the suspect or the accused personally and afterwards perform one of the following:

- 1) sanction the resolution of the investigator on the imposition of custodial placement as a constraint measure;
- 2) impose a different, milder constraint measure or reject the constraint measure altogether and release the detainee immediately.

**Article 244. Custodial institutions**

The accused that have been placed in custody as a constraint measure shall be contained in the common wards of the investigation isolators. The inquiry officer, investigator, procurator or court shall be entitled to issue an instruction to the administration of the investigative isolator regarding a separate containment of the accused in one criminal case or in several interrelated criminal cases.

Upon the resolution of the procurator or the ruling of the court the detainees can be kept in custody, in prison or in a one-man cell of the investigation isolator, if they are charged with grave or especially grave crimes determined by sections four and five article 15 of the Criminal Code. This measure is not applied for minors, persons older than sixty, heavily diseased, and persons with psychiatric diseases, certified by doctor. Condition of custody shall not be different from conditions in the investigation isolator.

Persons kept in custody may not be contained there for more than ten days. If the timely delivery of the person arrested to the investigation isolator is impossible, they may be kept in the detention facility for up to thirty days.

Military servants may be kept in guardroom for up to twenty days, and in the remote locations - for the entire period of the constraint measure. The military courts may extend the time period of the guardroom custody for the period of trial but not exceeding 15 days. Military servants confined to disciplinary unit may be kept in the guardroom up until the entry of the sentence is brought into force.

The convicted person may be transferred from the reformatory colony or the colony of the sentence service to the investigative isolator or remain in the investigative isolator after the entry of the sentence into force, if he is a witness or a victim in another criminal proceeding. In this case the convict may be kept in the investigation isolator: with the sanction of the regional or equal procurator for up to three months, with the sanction of the Attorney General of the Republic of Uzbekistan or his deputy - for up to six months.

The convict located in a different district (town) shall be convoyed pursuant to the resolution of the procurator, resolution of the investigator authorized by the procurator, or the ruling of the court. The execution of convoy shall be assigned to the special unit of the Ministry of Internal Affairs of the Republic of Uzbekistan. (The addition was made by section 6 of the Law of the republic of Uzbekistan of 27 December 1996 - Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1997, No 2, p.56).

#### **Article 245. Time limits for custodial placement**

Custodial placement in the criminal investigation shall not exceed two months. The district (town) procurator or other equaled procurator may extend this time limit if it is impossible to complete the investigation, or if there are not grounds for the change of the constraint measure - for up to three months.

The further extension of the time period is permissible only in view of special complexity of the case and shall be made by the procurator of the Republic of Karakalpakstan, procurator of a region, of the city of Tashkent, or by equal procurator - for up to six months.

The further extension for more than six months is permissible in exceptional cases and only for persons charged with grave and capital offence. Such extension shall be executed by the Deputy Attorney General of the Republic of Uzbekistan - for up to one year and by the Attorney General of the Republic of Uzbekistan - for up to one year six months. Further extension of the time period is impermissible.

When the investigation is completed case materials must be made available to the accused and his defense lawyer for familiarization within one month prior to the expiration term of the maximum time limit of custodial placement determined by sections two and three of this article.

The time spent for the familiarization of the accused and his defense lawyer with the case materials shall not be included in the period of custody as a constraint measure.

**Article 246. Count of the time period of custody when the criminal case is recommitted for additional investigation**

When the court recommits the criminal case with the expired term of custody for additional investigation, according to the circumstances of the case the constraint measure may not be changed, the extension of custody shall be made by the procurator overseeing the investigation within one month from the moment of the receipt of the case by him. Extension of the indicated period is made with the account of the time spent by the accused in custody prior to forwarding the case to trial in accordance with the procedure and frames determined by sections one, two and three of the article 245 of this Code.

**Article 247. Procedure of extension of the time period of custody**

Within 5 days prior to the expiration of the established custody period the investigator shall be obliged to present the case to the procurator entitled to resolve the issue of extension and bring the motion indicating the reason for the delayed investigation, the case-in-chief and circumstances subject to validation and the length of the requested extension.

The procurator entitled to extend the time period of custody after having familiarized himself with the case and motion of the investigator, shall authorize the extension of the custodial placement or change or cancel

the constraint measure. Prior to the authorization the procurator may interrogate the person for whom the question of the custody extension is posed.

It shall be permissible to put together the motion regarding extension of custody and the one regarding the extension of the time period of investigation.

#### **Article 248. Indemnification of damage incurred by unlawful custody**

The harm inflicted to a person through the unlawful detention in custody as a constraint measure shall be entirely indemnified if further on an acquittal is issued or the criminal case was dismissed on the grounds determined by article 83 of this Code. Thereupon the rules of Section 7 of this Code are applied.

#### **Article 249. Bail**

The bail shall be concluded in monetary terms and valuables paid to the deposit of the pretrial investigation agency or court by the accused, the defendant, and their relatives, other citizens or legal entities. Real estate may be accepted as a bail.

The acceptance of the bail shall be reflected in a report drawn up by the inquiry officer, investigator, procurator, and the court shall make an appropriate note in the trial report. The report shall have the indication that the accused or the defendant were told of the responsibilities determined by article 46 of this Code, and gave an attestation not to violate them, and that the person providing the bail was informed that in case of failure to fulfil the responsibilities he will lose the bail amount. The official who accepted the bail, the provider of the bail, the accused, and the defendant, shall sign the report.

The amount of the bail should not be less than twenty minimal salaries and shall be determined by the inquiry officer, investigator, procurator or court who chose that constraint measure depending on the seriousness of the charge, personality of the accused or the defendant and the bail provider, property status of the bail provider and his relationship with the accused.

When providing the bail, the bail provider shall be informed of the nature of the charge that determined the choice of bail as the constraint measure and of the responsibility of the bail provider. He may reject the

assumed obligations before the grounds arise that enforce the conversion of the bail into the state property.

The bail provider shall not have the right to refer to the impossibility to control the behavior of the accused or the defendant with the exception of cases where he can prove force-majeur circumstance.

The bail shall be returned to the bail provider if the constraint measure was changed due to reasons other than the violation of the conditions that determined the choice of this constraint measure, also because of the case dismissal or because of the entry of the sentence into force.

Should the bail conditions be violated by the accused or the defendant, the bail shall be converted to the state property pursuant to the ruling of the court, and the accused or the defendant shall be imposed a more rigid constraint measure.

#### **Article 250. Recognizance of due conduct**

Recognizance of the promised due conduct shall consist of the written obligation of the accused or the defendant that he shall promise the inquiry officer, investigator, procurator or court that he shall not evade from investigation and trial, shall not impede the determination of truth, shall not engage in criminal activity, shall appear pursuant to summons of the inquiry officer, investigator, procurator and court. The person, giving the recognizance shall assume the obligation not to leave the location of jurisdiction without the permission of the inquiry officer, investigator, procurator or court and to inform them of the change of residence location within the same living location.

Should the accused violate the obligations given in the recognizance a more rigid constraint measure may be applied for him, of which he shall be warned while signing the recognizance.

#### **Article 251. Personal guarantee**

Personal guarantee shall consist of assumption by the credible people in the form of a written obligation of pledging for the due conduct of the accused or the defendant.

The inquiry officer, investigator, procurator or court shall determine the number of the guarantors. In exceptional cases there may be one person of outstanding credibility.

The guarantors shall be informed of the nature of the charge that led to the choice of the constraint measure, punishment that may be applied to the accused, and the responsibility of the guarantors if the accused or



defendant commit actions that the personal guarantee was meant to prevent. This information shall be reflected in the record of personal guarantee that shall be signed by the official that applied that constraint measure, the accused, the defendant and guarantors, or it shall be reflected in the trial report. Besides, every guarantor shall give a written recognizance of personal guarantee.

Guarantors may disclaim the assumed responsibilities before the grounds arise that enforce responsibility.

The guarantors shall not have the right to refer to the impossibility to control the conduct of the accused or the defendant with the exception of Act of Providence circumstances.

Should the accused or the defendant person on trial commit actions that the personal guarantee was meant to prevent, the guarantor may be held accountable as determined by law.

#### **Article 252. Guarantee of a public association or colleagues**

A public association or colleagues shall be entitled to make a ruling on the guarantee for a person who has been held liable as an accused or an defendant.

The ruling of the public association or colleagues shall be reflected in the form of a written obligation that they vouch for the due conduct of the person held liable in a criminal proceeding as an accused or a defendant. That obligation shall be handed to the inquiry officer, investigator, procurator or court that chose this constraint measure provided they agree with the ruling of the public association or the colleagues, they shall issue a resolution or ruling regarding the above. At the same time a record shall be drawn up to reflect the fact that the representative of the public association or of colleagues has been informed of the substance of the charge that determined the choice of this constraint measure, and the accused, the defendant has been informed of the possibility of change to a more rigid constraint measure in the event of violation of the assumed obligation.

Should the accused or the defendant change his job or residence, the public association or colleagues shall be obliged to immediately inform thereof the inquiry officer, investigator, procurator, or court who determined this constraint measure. In such instances the public guarantee shall be cancelled and may be replaced by a different constraint measure.

Should the accused or the defendant commit undue conduct, the public association or group of colleagues shall be entitled to disclaim the guarantee.

**Article 253. Hand-over of a juvenile to attendance**

Hand-over of a juvenile to the attendance of parents, caretakers, administration of a youth institution shall be conducted in accordance with the procedure prescribed by article 556 of this Code.

**Article 254. Supervision of the military command over the conduct of a military serviceman**

In accordance with the resolution of the inquiry officer, investigator, procurator or the ruling of the court, the accused military serviceman of fix-date service or a person liable for conscription called up for periodical training may be handed over to the supervision of the military command of the garrison, unit, military institution or school.

The supervision of the command consists of undertaking measures envisaged by legislation towards ensuring due behavior of the accused.

Resolution of the inquiry officer, investigator, procurator and the ruling of the court regarding the application, cancellation or change of the determined constraint measure shall be accepted as obligatory for the command who shall be advised on the substance of the charge that determined the supervision over the military serviceman. Should the accused commit actions the constraint measure was meant to prevent, the command shall have to inform the inquiry officer, investigator, procurator or court of the fact.

**Chapter 29. Dismissal from office**

Article 255. Grounds for dismissal of the accused or the defendant from office

Article 256. Resolution or the ruling of the court on dismissal of the accused or the defendant

Article 257. Duration of the resolution or ruling of the court regarding the dismissal from office of the accused or the defendant

Article 258. Appeal against the resolution or ruling of the court regarding the dismissal of the accused or the defendant

Article 259. Dismissal from office of certain categories of officials

Article 260. Indemnification of harm inflicted by unlawful dismissal of a person from office

**Article 255. Grounds for dismissal of the accused, defendant from office**

Inquiry officer, investigator, procurator or court shall be entitled to dismiss the accused, defendant from office if there are sufficient grounds to assume that while holding the former position in office he would impede ascertaining of truth in the criminal proceedings, payment of damages inflicted by the crime, or he may continue criminal activity.

**Article 256. Resolution or the ruling of the court regarding dismissal of the accused or the defendant from office**

Having adopted a ruling on dismissal of the accused or the defendant from office, the inquiry officer, investigator or procurator shall issue a resolution regarding that and a court shall issue a ruling. Such resolution of the inquiry officer, investigator shall be authorized by the procurator.

In the resolution or court ruling the following shall be indicated: a person dismissed from office; his place of work; grounds for dismissal; demand for dismissal of the accused or the defendant from office addressed to the competent head of the enterprise, institution or organization.

Resolution or the court ruling regarding the dismissal of the accused or the defendant from office shall be obligatory for the head of the enterprise, institution, organization who upon the receipt of the resolution or ruling must immediately fulfil it and notify the inquiry officer, investigator, procurator or court that that order is issued on the enforcement of the ruling on dismissal of the accused or the defendant from office.

**Article 257. Duration of the resolution or ruling of the court regarding dismissal from office of the accused or the defendant**

Inquiry officer, investigator, procurator and court shall cancel resolution or court ruling regarding the dismissal from office of the accused or the defendant when further enforcement of this measure is not necessary.

The court in its acquittal or the ruling regarding the dismissal of the case shall cancel the dismissal of the defendant from office.

**Article 258. Appeal against the resolution or ruling of the court regarding the dismissal of the accused or the defendant from office**

Should the accused be dismissed from office pursuant to the resolution of the inquiry officer, investigator or procurator, his defense lawyer and lawful representative as well as the head of the enterprise, institution, organization where the dismissed used to work shall be entitled to appeal against the resolution to the procurator of the higher instance. Interested parties can file a complaint to a higher court against the court ruling regarding the dismissal from office of the defendant

**Article 259. Dismissal from office of certain categories of officials**

Should the inquiry officer, investigator and procurator be brought to criminal responsibility as accused persons on trial, they shall be considered dismissed from office.

**Article 260. Indemnification of harm inflicted by unlawful dismissal of a person from office**

Harm inflicted to the person by unlawful dismissal from office shall be entirely indemnified if further on an acquittal was issued for him or the criminal case was dismissed pursuant to the grounds determined by article 83 of this Code.

**Chapter 30. Compelled appearance**

Article 261. Responsibility to appear pursuant to summons

Article 262. Persons subject to compelled appearance

Article 263. Issue of resolution or court ruling regarding compelled appearance

Article 264. Enforcement of a resolution or court ruling regarding compelled appearance

**Article 261. Responsibility to appear pursuant to summons**

Persons summoned by an inquiry officer, investigator, procurator, or court in the manner and procedure prescribed by law in connection with criminal proceedings must appear exactly at the appointed time.

For failure to appear without good reason, such persons may be compelled to appearance.

**Article 262. Persons subject to compelled appearance**

Compelled appearance shall be enforced to provide for the participation of a suspect, accused, defendant, victim, or witness in a criminal proceeding or trial, if they refuse to appear without good reason.

Compelled appearance of a suspect, accused or defendant without a preliminary summons may be enforced, if such persons evade from inquiry, pre-trial investigation or court proceeding or if they do not have a definite residence location.

Compelled appearance of a defendant without prior determination of sufficient reasons for failure to appear in court may be permissible only as a way of exception if the case hearing was deferred because of the absence of the defendant, and there is no information of his whereabouts.

Enforcement of compelled appearance against a witness or victim shall not relieve them from responsibility for refusal to give evidence.

**Article 263. Issue of a resolution or court ruling regarding compelled appearance**

The inquiry officer, investigator or procurator shall issue a resolution regarding compelled appearance, and the court shall issue a court ruling. In the resolution or court ruling the following shall be indicated: surname, name, patronymic of a person subject to compelled appearance; his procedural status; residence or job location; grounds for the compelled appearance; when and where the person should appear; and who is assigned to enforce the compelled appearance.

**Article 264. Enforcement of a resolution or court ruling regarding compelled appearance**

A resolution or court ruling regarding the compelled appearance shall be forwarded for enforcement to the militia station of the relevant subdivision of the administrative jurisdiction where criminal proceedings are taking place.

Should an employee of a militia station locate the person subject to compelled appearance, he shall inform him of the resolution or court ruling and take his signature in confirmation of the receipt of information and bring him to the inquiry officer, investigator, procurator or court that issued the aforementioned resolution or court ruling. A report shall be attached to the resolution or court ruling

indicating the time and place where the person was found and the time of compelled delivery. The report shall reflect his complaints, motions in connection with the compelled appearance if any.

After having determined that it is impossible to enforce compelled appearance because of the person's escape, vacation, business trip, grave illness or other reasons, the militia station shall draw up a report of the fact and inform thereof the inquiry officer, investigator, procurator or court that issued the resolution or court ruling.

### **Chapter 31. Commitment of a person to a medical institution**

Article 265. Persons subject to commitment to medical institutions

Article 266. Resolution or court ruling regarding the commitment of a person to a medical institution

Article 267. Measures of constraint when committing a person to a medical institution

Article 268. Time period of commitment to a medical institution

Article 269. Complaint against a resolution or court ruling regarding the commitment of a person to a medical institution

#### ***Article 265. Persons subject to commitment to medical institutions***

If during the course of a forensic medical or forensic psychiatric examination a need arises for hospital observation, the inquiry officer, investigator, procurator or court shall have the power to commit an accused or defendant to the appropriate medical institution under the condition that they are accused in committing a crime for which they may be deprived of freedom.

A person, whose mental condition excludes the possibility to recognize him as an accused as well as to present him accusation, may be committed to a psychiatric institution for an examination if there is sufficient evidence that he committed a crime.

Should the time limit for keeping a person recognized as a suspect expire before the end of the hospital forensic psychiatric examination, the person must be either presented with accusation, if his psychic condition allows that, or released from the medical institution, or a resolution

must be issued concerning recognition him as a person subjected to the compelled medical treatment proceedings.

Victims and witnesses may not be committed to a medical institution for forensic examination except where a suspect, an accused or a defendant is accused in committing a grave or especially grave crime pursuant to paragraphs four and five of article 15 of the Criminal Code and there are no other possibilities of determining the validity of their testimony.

**Article 266. A resolution or court ruling regarding the commitment of a person to a medical institution**

Commitment of a person to a medical institution shall be enforced pursuant to a warrant request of the inquiry officer or investigator sanctioned by a procurator, or the procurator's resolution or court ruling.

In a resolution or court ruling regarding the commitment of a person to a medical institution the following shall be indicated: the name of the person subject to commitment to the institution, his procedural status; name of the medical institution; if necessary - an instruction on transportation of the person under guard to the indicated medical institution and any court ruling regarding the measure of constraint.

**Article 267. Measures of constraint while committing a person to a medical institution**

A detention as a measure of constraint may be applied for an accused, an defendant or a person for whom compelled medical treatment or examination is proceeded during his commitment to a medical institution, if that medical institution has the appropriate detention facility. Otherwise the indicated constraint measure shall have to be cancelled or changed to a less rigid one.

The time period of commitment to a medical institution for an accused, an defendant or a person for whom compelled medical measures are applied, is included in the period of detention.

**Article 268. Time period of commitment to a medical institution**

An accused, an defendant or a person for whom compelled medical measures are enforced may be committed to a medical institution for a term not exceeding one month.

In exceptional instances based on a medical determination, this term may be extended an additional month by the procurator's resolution or court ruling in whose jurisdiction the case is set. Further extension of the term is impermissible.

**Article 269. Complaint against a resolution or court ruling regarding the commitment of a person to a medical institution**

A person committed to a medical institution for examination, his defense lawyer and lawful representative shall be entitled to file a complaint challenging the resolution of the inquiry officer, investigator and procurator regarding the commitment, and challenging the court ruling - to a court of higher instance.

**Chapter 32. Security provisions for the participants of a trial, responsibility for violation of proceedings and orders of the inquiry, preliminary investigation or court trial**

Article 270. Security provisions for the participants of a criminal trial

Article 271. Liability for violation of the procedural responsibilities

Article 272. Liability for violation of the trial proceeding

Article 273. Actions of the court on holding parties responsible for the violation of procedural responsibilities during the trial

Article 274. Court procedures on imposition of penalties and fines

**Article 270. Security provisions for participants of criminal proceeding**

If there is sufficient information that a victim, a witness or other persons participating in the proceedings or their family members or other close relatives, are facing threats of murder, the use of violence, or the destruction of or damage to property, or other dangerous illegal actions, the inquiry officer, investigator, procurator or court shall be required to take measures towards the protection of life, health, honor and the property of such persons, and take such measures towards determining the persons responsible and holding them accountable.

The inquiry officer, investigator, procurator and court may issue a written instruction to the militia stations to take all the necessary



measures to provide for the protection of life, health, honor, dignity and property of the persons participating in the proceedings.

The department of the interior must be informed of the data available in the case materials pertaining to persons who are facing the threat of danger, of the possible nature of the threat, the source, location, time and other circumstances thereof.

#### **Article 271. Liability for violation of procedural responsibilities**

Trial participants who violate law pertaining to the criminal proceedings as defined by articles 230-241 of the Criminal Code shall be held responsible pursuant to the general rules of the present Code.

Moreover, for the violation of procedural responsibilities the following participants may be held responsible as determined by law:

Victims and witnesses - for their refusal to fulfil lawful demands of the inquiry officer, investigator, procurator and court, to undergo inspection, examination, and produce samples for testing;

Persons subject to seizure, search and persons whose property is subject to impoundment (except the accused, the suspect and their close relatives), - for their refusal to produce the item pursuant to the demand of the inquiry officer, investigator or procurator;

Employees of the communication media facilities - for their failure to fulfil or insufficient fulfillment of the resolution of the inquiry officer, investigator or procurator pertaining to the arrest of the postal and telegraphic communication;

Government officials and citizens - if they impede the examination of the scene of an accident, investigative experiment, the exhumation of a corpse, seizure or search;

Trial participants - for the disclosure of information pertaining to the inquiry and preliminary investigation, if they were warned by the inquiry officer, investigator or procurator prohibiting disclosure;

Managers of enterprises, institutions, organizations - if they impede the appearance of suspects, the accused, the defendants, witnesses, expert witnesses, specialists, translators as well as the victims, civil plaintiffs, civil respondents, their representatives, public procurators, public advocates, public assessors pursuant to the summons of the inquiry officer, investigator, procurator or court; for the failure to fulfil or for insufficient fulfillment of the official request of the inquiry officer, investigator, procurator or court ruling pertaining to eliminating the causes of crimes and conditions conducive to crime.

Article 272 has been amended as per the Law of the Republic of Uzbekistan No 485-I of 30 August 1997.

**Article 272. Liability for violation of the trial proceeding**

In the event of a violation of law pertaining to the trial proceeding, disobedience to the instructions of the chairing judge or the appearance of disrespect to the court, the offender shall receive a warning that a repetition of such actions will result in his removal from the courtroom; an administrative penalty may be imposed on the offender, as defined in section four of this article. If the warning proves ineffective, the trial participant, pursuant to the court ruling, and other persons, pursuant to the instruction of the chairing judge, shall be removed from the courtroom. Further proceedings shall continue in the absence of the removed persons.

If the court ruling concerns the prosecution or defense attorneys, the hearing shall be deferred except in cases where several procurators or several defense attorneys from the very beginning have conducted the prosecution or the defense of one person. The court may issue an intermediate ruling regarding the inappropriate conduct of the removed procurator or defense attorney, which shall be forwarded to the procurator of higher instance or to the qualification commission of defense lawyers, respectively. (In the edition of the Law of the RU No 485-I of 30 August 1997).

If the defendant was removed from the courtroom the sentence shall be announced in his presence or announced to him immediately after the announcement and he shall sign an acknowledgement of the announcement.

A presiding judge may impose an administrative measure upon a person removed from the courtroom (with the exception of the defendant, procurator or defense attorney) pursuant to the court ruling issued there and then. The court ruling must be reflected in the trial court report.

**Article 273. Actions of the court on holding parties responsible for the violation of procedural responsibilities during the trial**

If the grounds for imposing criminal liability on a trial participant for violating law pertaining to criminal proceeding appear in the course of trial or during revision of the case in the cassation or supervision function, the court shall initiate criminal proceeding against that trial participant and forward the relevant material to the procurator for investigation.

## **Article 274. Court procedures on the imposition of penalties and fines**

The court in whose jurisdiction the relevant criminal case is set shall impose monetary penalties and fines in the events determined by this Code. Should the violation of procedural responsibilities occur during the trial, the court ruling on the imposition of a fine shall be issued in the same trial hearing where the incident occurred.

In other cases the issue of the imposition of the monetary penalty shall be decided by the court by way of summoning the person who is subject to the imposition of the penalty. His failure to appear before the court without good cause shall not impede the trial of the case.

The record of offense drawn up by the inquiry officer, investigator or procurator, and the materials attached to the record of offense, or the appropriate excerpt from the court report shall be announced in the court trial. Thereafter the pleading of the offender shall be heard and the procurator's opinion, if he is participating in the trial, and shall be followed by the court ruling.

The court issuing the ruling pertaining to the imposition of the monetary penalty on a translator, specialist, bailman or the imposition of a fine on a person violating law pertaining to trial proceeding shall have the right to defer the enforcement of the ruling or spread the execution for up to three months to be paid by installments.

## **Section 5**

### **Indemnification for property damage caused by criminal actions**

#### **Chapter 33. Civil suit in criminal proceedings, other material penalties**

Article 275. Civil suits, considered in criminal proceedings

Article 276. Filing a lawsuit

Article 277. Recognition of a person as a plaintiff

Article 278. Bringing a person to the suit as a respondent

Article 279. Filing and sustaining a suit by the procurator

Article 280. Application of civil procedure rules in the criminal proceedings

Article 281. Application of the rules regarding the grounds, terms, amount and procedure of indemnification for damage. Limitation of action

Article 282. Consequences of the recognition proceedings, amicable agreement and disclaimer of action

Article 283. Court sentence and ruling pertaining to lawsuit

Article 284. Conversion to state property of objects of crime

Article 285. Determination of further ownership of property raised through criminal activity

Article 286. Execution of sentence in part pertaining to suit proceedings and other property penalties

#### **Article 275. Civil suits, considered in the criminal proceeding**

Civil suits of citizens and legal entities on indemnification for the property damage inflicted by a crime or an action dangerous to society committed by a mentally disturbed person shall be considered during the criminal proceedings, as well as suits for the recovery of expenses for funeral or hospital treatment of a victim and amounts of money paid to him as insurance compensation, benefit or pension.

Jurisdiction of the lawsuit shall be determined by the jurisdiction of the main case in which it was filed.

#### **Article 276. Filing a lawsuit**

A person alleging injury from property damage from a crime or an action dangerous to society by a mentally disturbed person or his representative shall be entitled to file a lawsuit from the moment of the initiation of criminal proceeding prior to the beginning of the trial.

In the event of the death of the person whose property was lost or damaged as a result of a criminal act or an action dangerous to society, the right to file a suit in the criminal proceeding shall belong to his heirs.

A lawsuit may be filed in writing as well as in the verbal form. The court report shall record the verbal suit.

State dues shall not be levied for filing the suit in the criminal proceeding.

A person who did not file a suit in the criminal proceeding as well as a person whose suit was not considered shall be entitled to file it as a civil proceeding.

#### **Article 277. Recognition of a person as a plaintiff**

In the event of the filing of a lawsuit, the inquiry officer or investigator who concluded from the case materials that a person suffered a property damage inflicted by criminal action, shall issue a resolution recognizing that person as a plaintiff. A copy of the resolution or court ruling shall be handed to the person filing the lawsuit or his representative. The plaintiff shall be advised of his rights and responsibilities as determined by article 57 of this Code, and the person whose lawsuit was denied shall be advised of the order of filing a complaint challenging this ruling.

**Article 278. Ordering a person to a lawsuit as a respondent**

Having recognized the applicant as a plaintiff, and having determined that pursuant to law property liability for the damage inflicted by the action of the accused, defendant or a person for whom a compulsory medical proceeding is considered, shall be carried by other persons, the inquiry officer or investigator shall issue a resolution and the court shall issue a ruling regarding the relevant citizen or legal entity to appear as a respondent. The resolution or court ruling shall be announced to the respondent or his representative. They shall be advised of their rights and responsibilities as determined by articles 59 and 62 of this Code.

**Article 279. Filing and sustaining a lawsuit by the procurator**

The procurator shall be required to issue or sustain the filed lawsuit or bring a protest against the lawsuit if that is required for the protection of the state or public interest or the rights and lawful interests of the citizens.

**Article 280. Application of civil procedure rules in the criminal proceedings**

Lawsuit proceeding during the inquiry, preliminary investigation and trial shall be conducted pursuant to the provisions of this Code. Any proceedings arising in connection with the lawsuit not regulated by this Code shall be governed by the Civil Procedure Code which do not conflict with the principles of criminal proceedings.

**Article 281. Application of rules regarding the grounds, terms, amount and procedure of indemnification for damage. Limitation of action**

In the lawsuit proceedings, the grounds, terms, amount of damage and procedure for indemnification of damage shall be determined pursuant to the rules of the civil, labor and other branches of legislation.

Limitation of action determined for other branches of legislation shall not be applicable to civil suits considered during the trial of a criminal case.

**Article 282. Consequences of the recognition proceedings, amicable agreement and disclaimer of action**

Recognition of a claim by an accused, defendant or respondent or an application for amicable settlement of the claimant, accused or defendant shall not require dismissal of the civil proceeding and shall not relieve the inquiry officer or investigator of the obligation to carry out a thorough, complete, comprehensive and objective survey of the circumstances pertaining to the civil suit, nor shall it relieve the court from the obligation to hear the case and resolve it.

Acceptance of a disclaimer shall result in the dismissal of the action and deprive the claimant of any right to file a claim against the same person and upon the same grounds both in the criminal and civil proceeding.

**Article 283. Court sentence and ruling in part pertaining to cause of action**

When issuing the sentence or court ruling regarding a compelled medical measure or non-application thereof involving the psychic condition of a person or the action committed by him that does not present any danger to society, the court, depending on the sufficiency of the evidence and the amount of claim, shall grant the claim completely or partially or dismiss the claim.

When issuing an acquittal or a court ruling regarding the dismissal of a proceeding involving a compulsory medical measure, the court shall dismiss the claim, if:

- 1) there is the absence of a criminal act or an act that presents danger to society;
- 2) it was determined that a person for whom the issue of compulsory medical measure was imposed had no complicity in the crime or action dangerous to society;

3) actions involving property damage were committed within the limits of necessary defense by the defendant or the person, for whom the compulsory medical measure was imposed.

In the event of an acquittal of the defendant on the basis that the act committed was not criminal or in the event of a dismissal of a proceeding of a compulsory medical measure on the grounds other than those mentioned in section two of this article, the court shall grant the claim in whole or in part or dismiss the claim depending on the evidence and the amount of the claim.

When granting a civil claim, the court may impose an amount beyond that requested in the claim if the amount of claim does not influence the qualification of the criminal action or the penalty.

Dismissal of a claim filed in criminal proceeding shall deprive the claimant of any further right to file a claim against the same person and on the same grounds in a civil proceeding.

#### **Article 284. Conversion to state property of items involved in criminal actions**

Property involved in a criminal act shall be converted to the state property if it is not subject to return to the former owner. If such property has not been discovered, then, pursuant to the court ruling, or, in the event of a criminal case dismissal or court ruling in a civil proceeding, its value must be paid to the state.

#### **Article 285. Determination of ownership of property derived from criminal activity**

Money, objects and other valuables acquired by an accused through criminal activity shall be spent towards indemnification of any property damage pursuant to a court ruling, and the amount exceeding the damage shall be paid to the state.

If the property involved in a criminal action and discovered in possession of a third party, was confiscated and returned to the original owner, the money, objects, other valuables, acquired by the defendant through the realization thereof, shall be paid to the state pursuant to a court ruling. The good-faith acquirer of the indemnified property shall be advised of the right to file a claim against the defendant for the indemnification of damage caused by confiscation of that property.

#### **Article 286. Enforcement of sentence involving a civil action and other property penalties**

When a civil claim is granted the sentence and court ruling regarding a compelled medical measure or of property penalties shall be enforced pursuant to the law of civil procedure.

#### **Chapter 34. Return of property to the victim or civil claimant**

Article 287. Return of confiscated property

Article 288. Determination of further ownership of property if a claim of indemnification is filed

Article 289. Requisition and confiscation of property of a victim and others

#### **Article 287. Return of confiscated property**

Property of a victim or other legal entity, which has been confiscated pursuant to a criminal proceeding and identified by exhibits, shall be subject to return. If the victim is deceased such property shall be transferred to the heirs of the deceased or to that of the terminated legal entity, or to the successor.

Property whose ownership has not been determined shall be converted to state property.

Restoration of property or payment to the state thereof shall become effective upon the enforcement of a court ruling or upon a court ruling involving a compelled medical action or upon the dismissal of the case by a resolution of an inquiry officer, investigator or court ruling.

#### **Article 288. Determination of further ownership of property if a claim of indemnification is filed**

If the proprietor or lawful owner of property that has been confiscated pursuant to a criminal proceeding and identified by an exhibit disclaimed property and filed a claim of indemnification for its cost, the court shall transfer the property to the ownership of the defendant or civil respondent recognizing the disclaimer and granting such claim.

Should the disclaimer be denied, the court shall dismiss the claim or grant it partially transferring in favor of the victim or the civil claimant the amount to which the cost of the redeemed property has been reduced, or the amount that resulted through adding the cost of repairs and compensation for the loss of the marketable appearance of goods. An



expert shall determine initial and residual value of property and the amount compensating the loss of the marketable appearance; the cost of repairs shall be determined pursuant to a document of the enterprise that carried out the repairs.

**Article 289. Requisition and confiscation of the property of the victim and other persons**

If the exhibit in the case shows that a property cannot be privately owned, it shall be confiscated or taken away depending on whether the proprietor acquired it lawfully or unlawfully, and shall be transferred by the court to the relevant state agency or legal entity entitled to possess, utilize, and dispose of such property.

**Chapter 35. Provision for the enforcement of sentence in part relating to property penalty**

Article 290. Impoundment of property

Article 291. Record of the imposition of the impoundment of property

Article 292. Mandatory responsibility for handing the copy of the record of property impoundment

Article 293. Property evaluation for the imposition of arrest

Article 294. Confiscation and storage of the arrested property

Article 295. Cancellation of the property arrest

**Article 290. Impoundment of property**

To provide for the enforcement of the sentence in part relating to the civil claim, other property penalties and confiscation of property, inquiry officer, investigator or court must impose impoundment on the property of a suspect, accused, defendant or civil respondent.

Dwelling, apartment, articles of household furniture and utensils, clothes and other objects necessary for normal living of the family of a suspect, an accused, a defendant or a civil respondent shall not be subject to impoundment.

Should dwellings and non-dwelling premises irrespective of the type of ownership be used for criminal activity such as a treason, an assault of the constitutional order, the President of the Republic of Uzbekistan, for terrorism, subversive activity associated with premeditated murder, robbery, banditry or other grave or especially grave crimes - such premises shall be impounded. (Added pursuant to point 5 section eight of the Law of the RU No 772-I of 15 April 1999).

Impoundment consists of the announcement to the proprietor or the owner of the property of the prohibition to dispose of, and - if necessary - to utilize thereof or of confiscation of property and transfer thereof to other persons for storage.

Impoundment of property shall be imposed pursuant to the resolution of the inquiry officer, investigator or the ruling of a court entitled to assign the proceeding of that investigative action to an investigative agency. (In the edition of the Law of RU No 357-I of 27 December 1996)

A resolution or court ruling regarding the property impoundment shall indicate who issued it, time of issue, the relevant case, the purpose of the property impoundment and the name of the proprietor whose property is subject to impoundment; in case of a civil proceeding the cost of property shall be mentioned.

Should an inquiry officer or investigator fail to take measures towards the enforcement of the sentence in part pertaining to property penalties, the court in whose jurisdiction the case is set shall oblige them to take such measures.

When granting a civil claim or when applying other property penalties the court shall be entitled to issue a ruling regarding the enforcement measures for that part of the sentence prior to the entry of the sentence into force if such measures have not been taken before.

While imposing the impoundment for the property located in the premises of diplomatic representations and in the possession of diplomatic representatives rules determined by article 165 of this Code shall be observed.

Chapter 35. Provisions for the enforcement of a sentence in parts relating to property penalty

Article 290. Impoundment of property

Article 291. Record of the imposition of the impoundment of property

Article 292. Mandatory responsibility for handing the copy of the record of property impoundment

Article 293. Valuation of property subject to impoundment

Article 294. Confiscation and storage of the impounded property

Article 295. Cancellation of the property impoundment

Article 290. Impoundment of property

To provide for the enforcement of the sentence in part relating to the civil claim, other property penalties and confiscation of property, inquiry officer, investigator or court must impose impoundment on the property of a suspect, accused, defendant or civil respondent.

Dwelling, apartment, articles of household furniture and utensils, clothes and other objects necessary for normal living of the family of a suspect, an accused, an defendant or a civil respondent shall not be subject to impoundment.

Should dwellings and non-dwelling premises irrespective of the type of ownership be used for criminal activity such as a treason, an assault of the constitutional order, the President of the Republic of Uzbekistan, for terrorism, subversive activity associated with premeditated murder, robbery, banditry or other grave or especially grave crimes - such premises shall be impounded. (Added pursuant to point 5 section eight of the Law of the RU No 772-I of 15 April 1999).

Impoundment consists of the announcement to the proprietor or the owner of the property of the prohibition to dispose of, and - if necessary - to utilize thereof or of confiscation of property and transfer thereof to other persons for storage.

Impoundment of property shall be imposed pursuant to the resolution of the inquiry officer, investigator or the ruling of a court entitled to assign the proceeding of that investigative action to an investigative agency. (In the edition of the Law of RU No 357-I of 27 December 1996)

A resolution or court ruling regarding the property impoundment shall indicate who issued it, time of issue, the relevant case, the purpose of the property impoundment and the name of the proprietor whose property is subject to impoundment; in case of a civil proceeding the cost of property shall be mentioned.

Should an inquiry officer or investigator fail to take measures towards the enforcement of the sentence in part pertaining to property penalties, the court in whose jurisdiction the case is set, shall oblige them to take such measures.

When granting a civil claim or when applying other property penalties the court shall be entitled to issue a ruling regarding the enforcement measures for that part of the sentence prior to the entry of the sentence into force if such measures have not been taken before.

While imposing the impoundment for the property located in the premises of diplomatic representations and in the possession of diplomatic

representatives rules determined by article 165 of this Code shall be observed.

#### Article 291. Record of the imposition of a property impoundment

Inquiry officer or investigator shall have to draw up a record in the presence of at least two attesting witnesses pursuant to the requirements of articles 90-92 of this Code. The record shall have a complete list of property subject to impoundment with the indication of the items, measures, weight, extent of wear and tear, other individual features; it shall indicate the actions of the person enforcing the impoundment, and mention the ownership of the property to the third parties if such property is included in the record. In the event of confiscation of property the record shall reflect which objects have been confiscated, who and whereto transferred for storage.

If during the impoundment attempts were made to hide, destroy or otherwise damage the property this shall be reflected in the record with the indication of measures taken by the inquiry officer or investigator.

#### Article 292. Mandatory responsibility for handing the copy of the record of property impoundment

A copy of the record of the property impoundment shall be handed to the person whose property was listed or to a member of his family that is of lawful age who shall sign to confirm the receipt thereof; in the absence of such family member the record shall be handed to the representative of the local self-governance authority on whose territory the inventory of property was made.

If the listed property is located on the territory of an enterprise, institution, organization or a diplomatic representation, a copy of the record of the impoundment shall be handed to the relevant representative of the administration or diplomatic representation who shall sign to confirm the receipt thereof.

#### Article 293. Valuation of property subject to impoundment

The property subject to impoundment shall be valued by the inquiry officer or investigator in accordance with the current market prices and with the account of wear and tear. If necessary a specialist shall participate in the valuation of property.

Money, bonds, checks, shares and other securities shall be accounted as per their nominal price.

When imposing the property impoundment the record shall list part of the property with the amount sufficient for the compensation of damage to provide for the enforcement of the sentence in part pertaining to the civil claim. Therewith, the proprietor or owner is entitled to indicate the property that in his view should be included in the record.

#### Article 294. Confiscation and storage of the impounded property

The arrested property may be confiscated and transferred for storage to the representative of a self-governance body or other organization.

The impounded property may be confiscated and transferred to the storage of the proprietor or owner, his family member of the lawful age or other person who shall be advised of the responsibility determined by law for the safety of property and should sign to confirm the receipt of the advice thereof.

In any case the objects prohibited for circulation shall be confiscated. Law shall determine the procedure of storage thereof.

Money deposits, state bonds, shares and other securities stored in the bank shall not be confiscated, however, expense transactions thereof shall be terminated upon the receipt of a resolution or ruling regarding the impoundment.

#### Article 295. Cancellation of the property impoundment

The property impoundment shall be cancelled after the entry of the acquittal into force, or case dismissal, or the disclaimer by a claimant, or review of the legal issues of the case resulting in the application of an article of the Criminal Code that does not envisage confiscation of property, or, in other instances - when the grounds for the previous measures of civil proceeding and possible confiscation have been eliminated.

### **Section six. Measures of crime prevention**

Chapter 36. Measures of crime prevention

Article 296. Obligation to identify causes of crimes and conditions conducive to the commitment thereof

Article 297. Proposal of an inquiry officer, investigator, procurator towards the elimination of causes of crime and conditions conducive thereof

Article 298. Special court ruling on elimination of causes of crimes and conditions conducive to the commitment thereof

Article 299. Obligation to implement proposals and special court rulings

Article 300. Proposal and special court ruling regarding the exemplary fulfillment of citizen duties

**Article 296. Obligation to identify causes of crimes and conditions conducive to the commitment thereof**

In the course of criminal proceedings the inquiry officer, investigator, procurator, and court shall be obliged to identify causes of crimes and conditions conducive to the commitment thereof.

**Article 297. Proposal of an inquiry officer, investigator, procurator regarding the elimination of causes of crime and conditions conducive to the commitment thereof**

After having determined the causes of crimes and conditions conducive to the commitment thereof, the inquiry officer, investigator, or procurator shall bring a proposal to a relevant government agency, self-governance authority of the local community, public association, staff of the relevant organization or a government official regarding the measures towards the elimination thereof. The copy of the proposal shall be attached to the case.

**Article 298. Special court ruling on elimination of causes of crimes and conditions conducive to the commitment thereof**

Having determined the causes of crime and conditions conducive to the commitment thereof, court shall issue special ruling whereby demanding from relevant government agencies, self-governance authority of the local community, public associations, staff of the relevant organization or government officials obliging them to take measures towards elimination of causes and conditions thereof.

**Article 299. Obligation to implement proposals and special court rulings**

A government agency, self-governance authority of the local community, public association, collective group or a state official whom the proposal or special court ruling has been forwarded to regarding the causes of crimes and conditions conducive to the commitment thereof, shall be obliged to take the necessary measures and within one month inform the relevant investigator, procurator or court of the results thereof.

In the event of failure to fulfil or negligent attitude to the proposal or special court ruling the leaders of the enterprises, institutions or organizations guilty thereof shall be held responsible in accordance with law.

**Article 300. Proposal and special court ruling regarding the exemplary fulfillment of citizen duties**

Through a proposal of an inquiry officer, investigator or procurator and a court ruling leaders and the staff of the relevant enterprise, institution or organization shall be notified about good faith citizen who showed courage and exemplary fulfillment of the social duty in prevention or detection of a crime.

**Section seven. Rehabilitation**

**Chapter 37. Grounds for and consequences of rehabilitation**

Article 301. Grounds for rehabilitation

Article 302. Proprietary and other consequences of rehabilitation

Article 303. Grounds for and consequences of partial rehabilitation

**Article 301. Grounds for rehabilitation**

An acquittal and circumstances determined by article 83 of this Code shall be considered as grounds for rehabilitation.

**Article 302. Proprietary and other consequences of rehabilitation**

A rehabilitated person shall be entitled to indemnification of property damage and elimination of consequences of moral injury inflicted by unlawful arrest, unlawful detention as a measure of restraint, unlawful removal from office in conjunction with being held responsible as an accused or through unlawful commitment to a medical institution.

In the aforementioned instances the rehabilitated person shall be restored in labor, retirement, housing and other rights determined by article 310 of this Code.

### **Article 303. Grounds for and consequences of partial rehabilitation**

Grounds for partial rehabilitation of a person may be as follows:

- 1) conviction of a person to imprisonment for the term less than the time period he spent in detention or to a punishment without confinement;
- 2) exclusion of the part of charge from the sentence that resulted in the elimination of punishment dealing with confinement;
- 3) reduction of the term of confinement pursuant to the ruling of the higher instance court to the time period less than the factually served one or the replacement thereof by a less rigid punishment;
- 4) invalid grounds for arrest, confinement, commitment to a medical institution in case of conviction without criminal penalty.

Partial rehabilitation shall result in indemnification of property damage and elimination of consequences of moral damage to the extent inflicted to an accused or an defendant.

### **Chapter 38. Procedure for the indemnification of damage and restoration of other rights for the rehabilitated**

Article 304. Amount of indemnification of a property damage

Article 305. Sources of indemnification of a property damage

Article 306. Resolution of the issue regarding the indemnification and the amount thereof

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Article 310. Restoration of other rights of the rehabilitated

Article 311. Restoration of rights pursuant to the civil claim proceeding

Article 312. Time limit for filing claims

Article 313. Restoration of property and other rights of the rehabilitated military servicemen

Article 304 amended pursuant to the Law of RU No 486-I of 30 August 1997.

### **Article 304. Amount of indemnification of property damage**



Property damage inflicted to the rehabilitated by unlawful actions mentioned in articles 302 and 303 of this Code shall be completely indemnified.

The following shall be subject to indemnification:

- 1) salary and other labor income the rehabilitated was deprived of as a result of unlawful actions applied to him;
- 2) retirement pension and benefit if payment thereof was suspended;
- 3) money, deposits and interest thereof, state bonds and winnings thereof, shares and other securities, cost of objects and other property confiscated or converted to the state income pursuant to a sentence or a court ruling;
- 4) cost of property seized by the inquiry agency, preliminary investigation or court and lost by them;
- 5) fines and trial expenses collected pursuant to the court sentence;
- 6) amounts paid by the person to the defense counsel bureaus, collegium of advocates or a law firm for the legal services, other expenses inflicted to him through the unlawful actions applied for him (Edition of the Law of RU No 485-I of 30 August 1997)

If the rehabilitated is deceased the right to receive the compensation for the damage mentioned in items 1, 3, 4, 5 and 6 of this article shall be transferred to the heirs of the deceased; the indemnification for damage mentioned in item 2 of this article shall be rendered to the family members of the deceased who are entitled to pension in the event of the loss of the breadwinner.

#### **Article 305. Sources of indemnification of the property damage**

Indemnification of damage mentioned in items 1, 3, 4, 5 and 6 of article 304 of this Code shall be effected by financial agencies, those mentioned in item 2 - by the social welfare agencies from the state budget.

#### **Article 306. Resolution of the issue regarding the indemnification and the amount thereof**

In the acquittal or court ruling on case dismissal, and in the resolution on case dismissal issued by investigator or procurator - pursuant to the grounds determined by article 83 of this Code the right of the rehabilitated to indemnification of property damage must be recognized. The copy of the sentence, court ruling or resolution shall be handed or mailed to the rehabilitated. He shall be advised of the procedure of filing a complaint challenging the sentence, court ruling or a resolution and the procedure of indemnification of property damage and restoration of other rights.

Within one month after the receipt of the complaint from a rehabilitated the court, the procurator or the investigator who issued the ruling regarding the rehabilitation shall determine the extent of damage. They shall request estimations from financial or social welfare agencies if necessary. Should the case be dismissed by court after review thereof in cassation or supervisory function, the amount of damage shall be defined by court that issued the sentence.

#### **Article 307. Procedure of indemnification**

After the calculation of the extent of property damage the court shall issue a court ruling, and the investigator or procurator shall issue a resolution regarding monetary payment proceedings for the indemnification of the damage.

A copy of the court ruling or resolution certified by the official stamp should be handed or mailed to the rehabilitated. If the rehabilitated is deceased it shall be handed to the persons mentioned in part three of article 304 of this Code in order to be presented to the agencies obliged to effect payment.

#### **Article 308. Filing a complaint challenging a resolution or court ruling on payment proceedings**

Concerned parties may file a complaint to court challenging the resolution of the investigator, procurator regarding monetary payments pursuant to the procedures and time limits determined by this Code.

Concerned parties may file a complaint challenging the court ruling regarding the monetary payments and procurator may file protest to the court of higher instance pursuant to the general procedure.

#### **Article 309. Elimination of consequences of a moral damage inflicted to a rehabilitated**

If the information regarding the arrest, detention, removal from office, commitment to medical institution or conviction of a person has been published in newspapers, broadcast on radio, television or other mass media, the relevant mass media must inform the public of the rehabilitation pursuant to the request of the rehabilitated, and if he is deceased - pursuant to the request of his relatives, court, procurator or investigator.

#### **Article 310. Restoration of other rights of the rehabilitated**

A person removed from office through the unlawful conviction, unlawful commitment to a medical institution or custody, unlawful detention in

conjunction with being held responsible as an accused, defendant, shall be restored in his former job (position). If an enterprise or institution terminated or if there are other grounds determined by law that impede the restoration of the person in the former job (position) another job of equal value shall be provided.

Time period in custody applied as a measure of constraint, time period of the service of sentence, time period during which the person was not working because of unlawful removal from office, time period spent in the medical institution shall be added to the general work record and to the professional work record as per the specialization.

The person expelled from the educational establishment in conjunction with unlawful conviction, commitment to custody as a measure of constraint, detention or commitment to a medical institution shall be subject to restoration pursuant to the request the person.

The house formerly occupied by the person who lost his right to live in it as a consequence of unlawful conviction or compelled medical measure shall be returned to him; should such return be impossible the person shall be offered another housing of equal value with good amenities in the same location.

#### **Article 311. Restoration of rights pursuant to the civil claim proceeding**

If the claim of a person regarding the restoration of his labor, retirement and housing rights, or the indemnification of property or its cost has not been granted, or the person does not agree to the adopted ruling, he shall be entitled to file a claim to the court pursuant to the claim procedure.

#### **Article 312. Time limit for filing claims**

Claims concerning monetary payment as a way of indemnification of the property damage may be filed within two years from the moment of receipt of the court ruling or a resolution regarding the payments thereof by the rehabilitated or persons mentioned in part three of article 304 of this Code.

Claim on restoration of other rights may be filed by the rehabilitated within one year after the receipt of notification explaining the procedure of restoration of the one's rights. If the rehabilitated fails to meet the time limit requirement due to a valid reason, a investigator, procurator or court shall restore the rights pursuant to the request of the concerned parties.

**Article 313. Restoration of property and other rights of the rehabilitated military servicemen**

Restoration of employment, retirement, housing and other personal and property rights of the rehabilitated military servicemen and indemnification of property damage inflicted to them, elimination of consequences of the moral damage shall be done pursuant to the rules determined by this chapter and the procedure prescribed by the Procurator General, Minister of Defense, Minister of Interior and Chairman of the National Security Service of the Republic of Uzbekistan.

**Section eight. Procedural time limits and costs**

Chapter 39. Procedural time limits

Article 314. Calculation of time limits

Article 315. Calculation of time limits in procedural coercion

Article 316. Extension of time limit

Article 317. Restoration of time limit

**Article 314. Calculation of time limits**

Time limits stipulated by this Code and thereof determined by the ruling of the inquiry officer, investigator, procurator or court in the situations envisaged by law shall be counted in hours, days and months. While counting the time limits the hour and the day of start of the term shall not be counted, but this shall not refer to the count of time limits in case of arrest, placement in custody and medical institution.

The time limit counted shall include non-working time. When counting the time limits by days the term expires at 24.00 of the last day. If a similar action is necessary to perform in the court, procurator's office or other state institution, the time limit shall expire at the moment of the end of the working day thereof.

The time limit counted by months shall expire on the day of the last month, the number thereof corresponding to the first day of the term of the sentence; if the month does not have such date, the term shall expire on the last day of that month. If the end of the term coincides with a day-off (a weekend or a holiday), the next first working day shall be counted the last day of the term except when counting the term of arrest, placement in custody and medical institution.

**Article 315. Calculation of time limits in procedural coercion**

When arresting, committing to custody or to a medical institution the term shall be counted from the moment of factual application of these measures. Upon the expiration of the term mentioned in articles 226, 245 and 268 of this Code, the person shall be subject to immediate release.

The term shall be considered observed if the complaint, motion or other document has been transferred or presented prior to expiration to the person in whose jurisdiction it is to accept the document. The term shall not be considered overdue if the complaint, motion or other document has been submitted to the post-office prior to the expiration date; for persons committed to custody or medical institution - to the administration of the detention or medical institution.

**Article 316. Extension of time limit**

Time limits determined by this Code may be extended only in the situations prescribed thereby.

Time limits determined by a resolution of the inquiry officer, investigator, procurator or court ruling for the purpose of conducting a certain action may be extended pursuant to a motion of a concerned party by the ruling of an inquiry officer, investigator, procurator or court that determined the time limit.

**Article 317. Restoration of time limit**

The time limit that was overdue for a valid reason shall be restored by a resolution of an inquiry officer, investigator, procurator or court in whose jurisdiction the case is set. The inquiry officer, investigator, procurator shall issue a resolution - and court shall issue a court ruling - on granting the motion regarding the restoration of the missed term or on the denial thereof. A complaint and protest may be filed against denial of restoration of the term pursuant to the general procedure.

Pursuant to the motion of the concerned party the enforcement of the court ruling or a resolution that was challenged beyond the deadline may be suspended until the issue of restoration of the overdue term is resolved.

**Chapter 40. Proceeding costs and indemnification thereof**

Article 318. Proceeding costs and indemnification thereof

Article 319. Reservation of the average earnings

Article 320. Indemnification of proceeding costs

**Article 318. Proceeding costs and indemnification thereof**

Proceeding costs shall be comprised of:

- 1) amounts paid to victims and representatives thereof, witnesses, experts, specialists, translators, attesting witnesses to cover their expenses to provide for the appearance at the place of proceedings and return, an accommodation and per diems;
- 2) amounts paid to victims and representatives thereof, witnesses, attesting witnesses who do not have regular earnings for distracting them from their normal engagement;
- 3) honoraria paid to experts, translators, specialists for the execution of responsibilities at the stage of inquiry, preliminary investigation or trial, except the instances whereby these responsibilities were fulfilled within their regular work load;
- 4) honoraria paid to the defense lawyer for legal service if the defendant is exempt from payment thereof pursuant to article 50 of this Code;
- 5) amounts spent for storage and shipment of exhibits;
- 6) amounts spent for the examination in the expert institutions;
- 7) expenses incurred by arrest, compelled appearance and retrieval of persons;
- 8) other expenses incurred during the criminal proceeding.

Amounts mentioned in items 1, 2 , 3, and 4 of this article shall be paid pursuant to the resolution of the inquiry officer, investigator, procurator or the court ruling from the state budget.

**Article 319. Retention of the average earning**

A person summoned as a witness, victim, civil claimant, civil respondent and representatives thereof, an expert, translator, attesting witness, public procurator and public defense lawyer shall have their average earnings at the job place preserved over the time period spent for the appearance by summons served by an inquiry officer, investigator, procurator or court.

Article 320 was amended pursuant to the Law of the RU No 485-I of 30 August 1997)

**Article 320. Indemnification of proceeding costs**

Proceeding costs shall be recovered from defendants except the instances determined by parts six, seven and eight of this Article or shall be received to the state account.

The court shall be entitled to recover proceeding costs from the defendant with the exception of amounts paid to the translator.

Proceeding costs may be recovered from defendant released from punishment or thereof from defendant without imposing punishment.

Finding several defendants guilty the court shall define the amounts of proceeding costs to be levied from each of them. The court shall consider the gravity of guilt, the extent of criminal liability and property status of the defendants.

In the event of acquittal or case dismissal pursuant to article 83 of this Code the proceeding costs shall be recovered at the expense of the state. If the defendant has been acquitted on some charges but found guilty on others, the court shall oblige him to pay proceeding costs on charges that he was found guilty.

Proceeding costs shall be covered by state if the person who was levied the payment thereof is insolvent. The court shall be entitled to exempt the defendant entirely or partially from payment of proceeding costs if payment thereof can affect substantially the material condition of persons who are maintained by the defendant. The state shall pay for the proceeding costs in parts relating to payment for the defense lawyer's services if the defendant is exempt from payment thereof and cover amounts payable to translator.

Proceeding costs that arise in conjunction with deferral of case hearing in court or deferral of investigative proceeding because of failure of the proceeding participant to appear without valid reason when summoned by an inquiry officer, investigator, procurator or court, shall be levied on the person who failed to appear.

Material liability can also be levied in the following cases: failure of the defense attorney to appear without valid reason at the respective lawyers' bureaus, collegium or firm; failure of the public prosecution or defense attorney to appear before the respective public association or staff without valid reason. (In the edition of the Law of RU No 485-I of 30 August 1997).

In the juvenile criminal cases the court may levy the payment of proceeding costs on parents of the minor defendant or persons replacing thereof if they are guilty of negligence of control over the conduct of the minor.

In the event of acquittal of the defendant in the case filed pursuant to the complaint of the victim, the court shall be entitled to levy proceeding costs entirely or partially on the person by whose complaint the proceeding was commenced.

## **SPECIAL PART**

### **Section nine. Pretrial proceeding**

Chapter 41. Institution of criminal proceedings

Article 321. Obligation to institute criminal proceeding

Article 322. Reasons and grounds for the institution of criminal proceeding

Article 323. Inadmissibility of instituting criminal proceeding on the grounds of anonymous report

Article 324. Applications of persons

Article 325. Institution of criminal proceeding pursuant to a complaint of a victim

Article 326. Reports of enterprises, institutions, organizations, public associations and official persons

Article 327. Reports of mass media

Article 328. Direct discovery of information regarding a crime by an agency or an official person who has powers to institute criminal proceeding

Article 329. Consideration procedure for applications, reports and other information regarding crimes

Article 330. Rulings made upon consideration of information regarding a crime

Article 331. Procedure for the institution of criminal proceeding

Article 332. Consolidation and separation of criminal cases

Article 333. Dismissal of institution of criminal proceeding

Article 334. Measures taken as a response to the information regarding administrative, disciplinary and other delinquencies

Article 335. Transfer of application (report) regarding a crime to the unit of relevant jurisdiction

Article 336. Forwarding a criminal case after the institution of proceeding

Article 337. Procurator's supervision of due process of criminal proceeding

Article 338. Filing a complaint against the ruling to institute criminal proceeding

Article 321. Obligation to institute criminal proceedings

The inquiry officer, investigator, procurator and court shall be obliged to institute criminal proceedings if there is sufficient reason and grounds

Article 322. Reasons and grounds for the institution of criminal proceedings



Reasons for instituting criminal proceedings shall be the following:

- 1) application of persons;
- 2) reports of enterprises, institutions, organizations, public associations and official persons;
- 3) reports of mass media;
- 4) direct discovery by the inquiry agency, inquiry officer, investigator, procurator or court of information and traces indicating crime;
- 5) guilt pleas

Grounds for the institution of criminal proceedings shall be the information indicating the presence of the signs of crime.

Article 323. Inadmissibility of instituting criminal proceeding on the grounds of anonymous report

A letter, application or other anonymous report of crime that is not signed or signed with a fake signature or written on behalf of a fictitious person shall not be a reason for instituting criminal proceeding.

Article 324. Applications of persons

Applications of persons informing of a crime may be oral or written. A person from whom the application originates shall sign the application.

A record shall be drawn up to reflect an oral application. The record shall contain data regarding the applicant, his residence and employment location and personal documents. If the applicant cannot produce documents, his person shall be identified in other ways.

The applicant shall be warned of the criminal liability for deliberate false reporting and shall give a written recognizance thereof reflected in the record. Thereafter the record shall reflect a thorough, if possible, verbatim report of circumstances of crime in the first person. The applicant and an official person who accepted the application shall sign the record.

If the reason for instituting criminal proceeding is a plea of guilt as stipulated by article 113 of this Code, it shall be subject to all the provisions of this article concerning the receipt and documentation of the plea with the exception of the fact that the person shall not be warned about the criminal liability for deliberately false information.

Article 325. Institution of criminal proceeding pursuant to the complaint of a victim

Criminal cases of rape without aggravating circumstances and of forceful sexual gratification in perverse form (part one of article 118 and part one of article 119 of the Criminal Code) shall be instituted only pursuant to a complaint of a victim requesting to hold the guilty liable. In exceptional cases when a victim due to helpless condition, state of dependence upon the accused or due to other reasons cannot advocate for one's own rights and lawful interests the procurator shall be obliged to institute criminal proceeding without the victim's complaint.

Article 326. Reports of enterprises, institutions, organizations, public associations and official persons

Reports of enterprises, institutions, organizations, public associations and officials regarding crimes shall have the form of an official letter or certified telephone message, telegram or radiogram. The report may have attachments with documents that confirm the circumstances of crime.

Article 327. Reports of mass media

Reasons for instituting criminal proceeding may be reports of specific crimes in press, on radio and television, in documentary films and unpublished correspondence addressed to mass media.

Mass media who published or forwarded the information regarding crimes to the relevant agency and authors thereof shall have to present documents and materials available to them upon the request of the inquiry officer, investigator, procurator or court to confirm the information.

Article 328. Direct discovery of information regarding a crime by an agency or an official person who has powers to institute criminal proceeding

Direct discovery of information regarding a crime can serve as a reason for instituting criminal proceeding in the following cases:

- 1) if an inquiry officer receives information regarding a crime while performing administrative functions or during the inquiry for a different criminal proceeding;
- 2) if an investigator receives information on a crime while conducting preliminary investigation on a different crime;
- 3) if a procurator receives information regarding a crime while exercising the general supervision of due process or while conducting preliminary investigation on a different crime;

- 4) if a judge receives information regarding a crime while conducting administrative proceeding;
- 5) if a court receives information regarding a crime while conducting civil proceeding or a different criminal proceeding.

Article 329. Consideration procedure for applications, reports and other information regarding crimes

Applications, information and other communication regarding crimes shall have to be registered and examined immediately or within three days. If necessary, legality of cause and sufficiency of grounds shall be verified for instituting criminal proceeding directly or with the help of the inquiry agency within 10 days. These time periods shall be counted from the moment of receipt of the information on a crime and before adopting the ruling regarding instituting criminal proceeding or on denial to institute thereof.

Within the indicated time limits additional documents, explanations can be requested; arrest of a person, inspection of the scene of action and examination can be enacted. Conduct of other investigative actions prior to instituting criminal proceeding shall be prohibited.

Article 330. Rulings adopted upon consideration of information regarding a crime

Whenever information is received regarding a crime or when such information is discovered directly, the inquiry officer, investigator, procurator or court shall take one of the following rulings:

- 1) to institute a criminal proceeding;
- 2) to deny the institution of criminal proceeding;
- 3) to forward the complaint or information to a relevant unit as per the jurisdiction

Article 331. Procedure of institution of criminal proceeding

If the reasons and grounds determined by article 322 of this Code are present, an inquiry officer, investigator or procurator shall issue a resolution and a court shall issue a ruling regarding the institution of criminal proceeding.

A resolution or court ruling shall indicate reasons and grounds for instituting criminal proceeding, the article of the Criminal Code determining a crime for which criminal proceeding was instituted, a court or an official person accepting the case for further proceeding.

A copy of a resolution or court ruling on instituting criminal proceeding an inquiry officer, investigator or court shall forward to the procurator who shall perform the supervisory function over the investigation of the case.

Immediately after instituting criminal proceeding actions shall be taken towards constraint and prevention of repeated crimes and preserving the traces of crime, objects and documents that may prove significant for the case.

#### Article 332. Consolidation and separation of criminal cases

One investigation or court proceeding may only consolidate cases on one charge of complicity against several persons of committing one or several crimes or may consolidate cases on charges against one person of committing several crimes.

Separation of a case regarding persons charged with complicity in committing one or several crimes shall be admissible if the circumstances of the case make it necessary and if it does not affect completeness and objectivity of the inquiry, preliminary investigation and trial.

Consolidation and separation of cases shall be done pursuant to the resolution of an inquiry officer, investigator or the court ruling.

#### Article 333. Dismissal of institution of criminal proceeding

Upon the discovery of circumstances determined by items 1 and 2 of article 83 and part one of article 84 of this Code, an inquiry officer, investigator or procurator shall issue a resolution of which a citizen, an enterprise, an institution, an organization, a public association or an official from whom the information was received shall be notified. Therewith they shall be told of the right and procedure of filing a complaint against the resolution or court ruling.

#### Article 334. Measures taken pursuant to the information regarding administrative, disciplinary and other delinquencies

If the received communication contains information concerning administrative, disciplinary or any delinquency other than criminal or that of moral offence, an inquiry officer, investigator, procurator or court shall forward a written refusal to institute criminal proceeding along with the information to the administration of the work place, place of study, or the community of the delinquent, public association or juvenile inspection, government agency or an official person with relevant powers to apply administrative, disciplinary measures or public contempt.

If the received communication indicates violation of political, labor, housing, family or other citizen rights or violation of lawful interests of enterprises, institutions, organizations, public associations protected through civil proceedings, therewith the denial to institute criminal proceeding the concerned parties shall be told of their right and procedure to apply to court. If for some reason they are not able to use defense attorney the procurator shall be entitled to file an application to court advocating for the rights of these persons.

Article 335. Transfer of application (report) on crime to the unit of relevant jurisdiction

Transfer of an application (report) as per the jurisdiction shall be permissible if a crime is committed outside the respective district (town), and if the institution of criminal proceeding requires investigative actions in the district (town) where the crime was committed.

Article 336. Transfer of a criminal case after the institution of proceeding

After the issue of a resolution or court ruling on criminal proceeding:

- 1) the court shall forward the case to the procurator for proceeding the preliminary investigation;
- 2) the procurator shall forward the case to the investigator pursuant to article 345 of this Code for preliminary investigation or to the head of the inquiry agency for the inquest or shall start preliminary investigation himself;
- 3) the investigator shall start preliminary investigation and shall notify thereof the procurator immediately;
- 4) the head of the inquiry agency shall forward the case to the inquiry officer for the inquest or shall start the proceeding and notify the procurator immediately thereof;
- 5) the inquiry officer shall start the inquiry proceeding and notify the procurator immediately thereof.

Article 337. Procurator's supervision over the lawful institution of criminal proceeding

While supervising the lawful institution of criminal proceeding the procurator shall be entitled:

- 1) to cancel the resolution of an inquiry officer, a head of the inquiry agency, investigator regarding the institution of criminal proceeding and deny thereof;

- 2) to cancel the resolution of an inquiry officer, a head of the inquiry agency, investigator regarding the denial to institute criminal proceeding and institute thereof;
- 3) to bring protest to the higher instance court against the court ruling on instituting or on the denial to institute proceeding.

Article 338. Filing a complaint against the ruling to institute criminal proceeding

A resolution of a procurator regarding the institution of criminal proceeding may be subject to complaint to the higher instance procurator. By the same procedure the cancellation of a resolution may be subject to complaint.

A resolution issued by the inquiry officer, head of the inquiry agency or investigator concerning the denial to institute proceeding may be subject to complaint to procurator; a resolution issued by procurator concerning the denial to institute proceeding may be subject to complaint to the higher instance procurator, and the court ruling - to the higher instance court.

## **Chapter 42. Inquiry**

Article 339. Objectives of the inquiry

Article 340. Beginning of the inquiry

Article 341. Term of the inquiry proceeding

Article 342. End of the inquiry

Article 343. Fulfillment of assignments, instructions and requirements of the investigator

### ***Article 339. Objectives of the inquiry***

The inquiry is a conduct of urgent investigating actions in order to:

- 1) prevent or restrict the commitment of crime;
- 2) collect and preserve evidence;
- 3) arrest the persons suspected in committing crime and find the absconding suspects and accused;
- 4) secure indemnification of the property damage inflicted by the crime

The inquiry agencies shall be assigned to undertake necessary measures equipped with scientific-technical means with the purpose to discover signs of crime and identify persons committed it, find information that may be used as evidence in criminal case after its verification pursuant

to the rules of the present Code. The agency of the internal affairs, national security and state tax service shall be entitled additionally to undertake operative and tracking down measures to meet these objectives. (amended by section 5 of the Law #125-II, 31.08.2000)

**Article 340. Beginning of the inquiry**

After initiation of criminal case or having received the case initiated by the procurator or by the head of the inquiry agency, the inquiry officer shall accept thereof it immediately for his own processing and begin to undertake urgent investigating actions.

**Article 341. Time limits of conduct of inquiry**

The inquiry on a criminal case shall be completed within 10 days.

**Article 342. End of the inquiry**

The inquiry shall end with the passing of the criminal case to the investigator. The inquiry officer shall be obliged to pass the case to the investigator immediately before the time limits of the inquiry end if:

- 1) a aggravated or especially aggravated crime has been ascertain;
- 2) grounds have been ascertained for recognition a certain person in case as an accused;
- 3) grounds have been ascertain for case dismissal;
- 4) the investigator requested to pass the case for his own processing

The inquiry officer shall issue a resolution regarding the transfer of the case to the investigator.

**Article 343. Fulfillment by inquiry officer of assignments, instructions and requirements of the investigator**

An inquiry officer shall be obliged to fulfill assignments of the investigator concerning the investigating and tracking-down actions following his instructions concerning conditions, procedure and time limits of fulfillment.

If an assignment is impossible to fulfill within the given time limit the inquiry officer shall inform the investigator thereof and shall request extension of the time limit or alteration of conditions and ways of fulfillment.

Pursuant to the investigator's request the inquiry officer shall be obliged to assist him in conducting of investigating actions, as well as

to present him documents and other materials that can have evidentiary significance for the criminal case.

The investigator shall forward all assignments, instructions and requests to the inquiry officer via the head of the inquest agency.

### **Chapter 43. General conditions of the preliminary investigation**

Article 344. Official persons entitled to perform preliminary investigation

Article 345. Mandatory status of preliminary investigation

Article 346. Territorial jurisdiction

Article 347. Fulfillment of the investigator's instructions

Article 348. Transfer of the criminal case

Article 349. Participation of public in preliminary investigation

Article 350. Start of the preliminary investigation

Article 351. Time limits of preliminary investigation

Article 352. Participation of attesting witnesses in investigative actions

Article 353. The obligation of non-disclosure of data contained in the criminal case

Article 354. Assignment of preliminary investigation to a group of investigators

Article 355. Powers of the investigators' group leader

Article 356. Investigators as team members

Article 357. Fulfillment of the investigative action by several investigators

Article 358. Complaining against the actions and rulings of investigator and procurator

Article 344. Official persons entitled to perform preliminary investigation

The investigators of the procurator's office, agencies of interior, national security service shall perform preliminary investigation.

Procurators may as well perform preliminary investigation.

Article 345. Mandatory status of preliminary investigation

Preliminary investigation shall be mandatory in all criminal cases.

Preliminary investigation of crimes determined by articles 97-103, 114-119, 121, 124-126, 128, 129, 136, 141-149, 175, 183, 184-1, 186, 186-1, 193-212, 215-221, 225, 229-1, 229-2, 230-236, 242, 244, 245, 251-258,



264, 265 of the Criminal Code shall be subject to investigation by the investigators of the procuracy bodies. (In the edition of the Laws No 621-I of 1 May 1998, No 729-I of 15 December 1998, 772-I of 15 April 1999).

Preliminary investigation of crimes determined by articles 279-302 of the Criminal Code and of crimes committed by military servicemen shall be conducted by the investigators of the military procurator's unit.

Preliminary investigation of criminal cases of crimes determined by articles 150-163, 182, 223, 246 of the Criminal Code shall be conducted by investigators of the national security service.

Preliminary investigation of crimes determined by articles 104-113, 120, 122, 123, 127, 130-135, 137-140, 164-166, 168-174, 176-181, 184, 185, 185-1, 188-192, 213, 214, 222, 224, 226-229, 243, 247-250, 259-263, 266-278 of the Criminal Code and in crimes committed by minors shall be conducted by the investigators of the interior (in the edition of section XYII of the Law of the Republic of Uzbekistan No 82-II of 26 May 2000 and article 10, part I of the Law of the RU No 175-II of 15 December 2000).

Preliminary investigation of crimes determined by 167, 244-1, 244-2 of the Criminal Code shall be conducted by the agency who instituted the proceeding (in the edition of the item 6 of the section YIII of the Law of RU No 772-I of 15 April 1999).

In crimes determined by articles 237-241 of the Criminal Code, the agency in whose jurisdiction the criminal case is set shall conduct preliminary investigation.

If in the course of investigation a new crime is discovered that is in jurisdiction of other preliminary investigation agency, the entire investigation may be completed by the preliminary investigation agency in whose jurisdiction the case is set with the provision of consent from the respective procurator.

Investigators of the procurator agencies shall conduct preliminary investigation of crimes of certain categories committed by officials indicated in the law.

#### Article 346. Territorial jurisdiction

The criminal case shall be set in the jurisdiction of the investigator of the district (town) where the crime was committed.

Preliminary investigation may be conducted in the location where the proceeding was instituted or where the suspect or accused is or where the

majority of witnesses are if that is conducive to faster, thorough, complete, objective, comprehensive investigation of the circumstances of the case.

Pursuant to the instruction of the procurator of higher instance or the head of the higher instance investigative unit the preliminary investigation may be conducted irrespective of the rules of territorial jurisdiction.

#### Article 347. Fulfillment of the investigator's instructions

Each investigator of criminal case in his jurisdiction shall be entitled to conduct an investigative action personally or to assign another investigator or inquiry officer to conduct thereof in any location on the territory of the Republic of Uzbekistan.

The investigator's instruction shall indicate the time limit of fulfillment mandatory for the executive. If it is impossible to fulfil the instruction on time, the person assigned thereof informs in writing or by telegram or by a telephone message the investigator who gave the assignment of the time limit when the assignment can be fulfilled, and proceeds further on pursuant to the investigator's instructions.

#### Article 348. Transfer of the criminal case

The head of the investigative unit should transfer a criminal case from one investigator to another within the same investigative unit.

The head of the higher instance investigative department with the consent of the procurator should transfer a criminal case from one investigative unit to another.

#### Article 349. Participation of public in preliminary investigation

An investigator shall be entitled to involve public to crime prevention and disclosure of crimes. With that purpose he addresses the public associations, staff of organizations and community with a request to inform of anything significant for the criminal case, indicate the location of the sought persons or objects.

In response to an the investigator's request public associations and staff of organizations may recommend nominations for attesting witnesses, translators, specialists known to the community for the participation in certain investigative actions. The attesting witnesses, translators, specialists recommended as public representatives shall be entirely

subject to the rules of this Code on rights and responsibilities of the respective proceeding participants.

#### Article 350. Start of the preliminary investigation

After the institution of the criminal proceeding the investigator shall accept it to his proceeding and make a record thereof in the resolution regarding the institution of proceeding. If the investigator receives an instituted case, he shall issue a resolution acknowledging the acceptance of the case to his proceeding, thereafter he shall start the preliminary investigation.

#### Article 351. Time limits of preliminary investigation

Preliminary investigation shall have to be completed within two months from the date when the proceeding was instituted.

Preliminary investigation shall be considered as complete on the day the case is forwarded to the procurator with the indictment or the resolution regarding the transfer of the case to court for the application of compelled medical measures or on the day of issue of a resolution on case dismissal.

The time limit for preliminary investigation shall not include:

- 1) time period in which the accused, the defense attorney, the victim, the civil claimant, civil respondent and representatives thereof familiarize themselves with the case materials;
- 2) time period whereby preliminary investigation was suspended;
- 3) time period whereby the case was referred for the additional investigation and was not received by the investigator.

The time limit for preliminary investigation determined by part first of this article may be extended by the procurator of the district (town) or by acting procurator of the district (town) up to three months, by procurator of the Republic of Karakalpakstan, region (oblast), city of Tashkent or acting procurator of the region (oblast) up to six months. Further extension of the time limit of preliminary investigation can be done only in exceptional cases by the Deputy Procurator General of the Republic of Uzbekistan up to one year and by the Procurator General of the Republic of Uzbekistan up to one year six months. If persons accused in committing crime are not placed in custody, the time limit of the preliminary investigation can be extended up to two years.

When the case is referred for additional investigation and when the suspended or dismissed investigation is recommenced, the time limit for preliminary investigation shall be established by procurator who performs

supervisory function over investigation up to one month from the moment of acceptance of the case by the investigator. Further extension of the time limit shall be done on general grounds with consideration of the term of investigation prior to the submission of the case to court, suspension or dismissal of the case.

An investigator shall bring motion to the procurator regarding the extension of the term within ten days prior to the expiration of the time limit for investigation. The procurator shall authorize the motion or issue an instruction regarding the completion of the preliminary investigation and forwarding the case to court or shall issue a resolution on case dismissal.

#### Article 352. Participation of attesting witnesses in investigative actions

Seizure, search, inspection, examination, experiment, presentation for identification, verification of testimonies at the scene of action, getting samples for expert examination, exhumation of the corps shall be done at the preliminary investigation with participation of at least two attesting witnesses.

If one investigative action is performed by several investigators or the investigator and inquiry officers headed by the procurator, working at one time in different premises or at a considerable distance from each other, each investigator or inquiry officer shall have at least two attesting witnesses by them permanently.

The attesting witnesses shall be invited for the purpose of attesting the refusal of a citizen to fulfill lawful requirements and proposals made by the investigator with the exception of instances determined by article 93 of this Code or for the purpose of attesting the resistance to the investigator or other unlawful actions violating the procedure of preliminary investigation.

#### Article 353. The obligation of non-disclosure of data contained in the criminal case

The investigator shall be entitled to recognize the information in the criminal case as subject to non-disclosure entirely or in certain part. On these grounds he can take a recognizance - from the persons participating in the investigative actions or those present at the proceeding thereof or those familiarizing themselves with case materials - with the obligation of non-disclosure of the data contained in the case without the his permission. The recognizance shall mention the warning of

the liability for the violation of the obligation pursuant to article 238 of the Criminal Code.

The obligation of non-disclosure of the information contained in the case cannot be levied on the suspect or accused.

The obligation of the defense attorney of non-disclosure shall not include the instances of the one's conversations with the suspect or accused.

Article 354. Assignment of preliminary investigation to a group of investigators

If a criminal case is exceptionally labor-intensive, complex or of special importance to the society, the procurator or the head of the investigative unit can assign the proceeding of the preliminary investigation of the case to a permanent or specially organized group of investigators. A resolution shall be issued on such assignment with the indication of the leader and members of the group. If two rulings are made at one time: the one regarding the assignment of the preliminary investigation to a group of investigators, and the other one -on the institution of proceedings - both rulings shall be presented in one resolution. A resolution shall be issued on the changes of staff in the group, the replacement of the leader.

Article 355. Powers of the investigators' group leader

Investigator - the leader of the group shall receive the criminal case to the one's proceeding and carry overall responsibility for the general direction and end results of the preliminary investigation, for the legality and good grounds of each action and ruling fulfilled at the stage of criminal proceeding thereof.

The investigator - leader of the group:

- 1) shall distribute the workloads among the investigators, define the area of direction of investigation to each, assign certain investigative actions, determine time limits for fulfillment thereof;
- 2) shall personally conduct investigative actions and participate in certain investigative actions performed by investigators;
- 3) shall issue resolutions including the resolution regarding bringing persons to participation in the case as the accused, on placement of the ones in custody, on dismissal or suspension of the case as a whole in a certain part thereof;
- 4) shall determine execution of the procurator's instructions; shall forward the case with the one's objections to the higher instance procurator in cases determined by part three of article 36 of this Code;

- 5) shall assign instructions and directives to the inquest agency on the conduct of investigative and search actions; shall request assistance from the inquest agency in investigative actions performed by the investigators overseeing the execution thereof;
- 6) shall forward recommendations on measures towards elimination of causes of crimes and conditions conducive to commitment thereof;
- 7) shall draw up the indictment or a resolution regarding the forward of the case to court for the application of compulsory medical measures and submit thereof with the case to the procurator for approval.

#### Article 356. Investigators as team members

Investigators - members of groups shall fulfil assignments, instructions of the investigator-leader and inform the one of execution thereof.

The results of the investigative actions performed by investigators-groups members shall have the same significance as the results of actions of the investigator who accepted the case to the one's proceeding.

If the investigator-group member considers the assignments, instructions of the investigator-leader unlawful or ungrounded, the one shall express his objections. Having considered objections thereof, the investigator-leader shall cancel the assignment or instruction or give them to another investigator for execution, or conduct the respective action oneself. In the event of disagreement of the investigator-group member to the ruling taken by the leader with regard to his objections, he shall take his objections to the attention of the procurator overseeing the investigation that shall take the final ruling.

#### Article 357. Fulfillment of the investigative action by several investigators

If with a view of specific conditions and aims of inspection, search, experiment or other investigative action the participants of the action have to be in different premises at a time or at a considerable distance from each other; or if in the course of the investigative action they have to provide observance over several participants or persons present therein, the investigative action can be performed by several investigators or the investigator and assisting inquiry officers. Therewith, one of the investigators manages the actions of other investigators, inquiry officers and other participants of the investigative action.

#### Article 358. Complaining against the actions and rulings of investigator and procurator

Complaints against the actions and rulings of the investigator shall be filed to the head of the investigative unit and procurator overseeing the lawfulness of the investigative proceeding.

Complaints against the actions and rulings of the procurator shall be filed to the higher instance procurator.

#### Chapter 44. Bringing suspects and accused to the criminal case

Article 359. Grounds for bringing a person to the case as a suspect

Article 360. Resolution on bringing a person to the case as a suspect

Article 361. Resolution on bringing a person to the case as an accused

Article 362. Amend, dismissal and addition of charge

Article 363. Reinstatement of the dismissed charge

Article 359. Grounds for bringing a person to the case as a suspect

A person shall be brought to the criminal case as a suspect if the one was detained pursuant to suspicion in committing a crime on the grounds determined by article 221 of this Code or if the case contains data raising grounds to suspect the one of committing a crime.

Article 360. A resolution on bringing a person to the case as a suspect

An inquiry officer, investigator or procurator shall issue a resolution on bringing a person to participation in the criminal case as a suspect.

If a person suspect of committing a crime has been detained prior to the institution of a criminal proceeding and checking envisaged by article 225 of this Code confirmed the grounds of detention, the investigator shall take a ruling on the arrest, instituting the proceeding and bringing the one to the case as a suspect presenting thereof in one resolution.

A resolution shall contain the indication of crime in which the detainee is suspected, the article of the Criminal Code that determines the crime, reasons and grounds of detention, the ruling of detention of that person; it shall contain the institution of the criminal proceeding, if it was not instituted theretofore, and bringing the person to the case as suspect.

The resolution shall be announced to the suspect prior to the first interrogation. Therewith the suspect is told of the one's rights and responsibilities determined by article 48 of this Code.

Article 361. A resolution on bringing a person to the case as an accused

The investigator or procurator shall issue a resolution regarding bringing the person to the case as an accused that shall contain the following:

- 1) surname, name and patronymic of the person brought to the case as an accused, date, month and year of the one's birth;
- 2) subject matter of charge, i.e. description of the incriminated crime with the indication of place, time of commitment and other significant circumstances;
- 3) article, part, point of the Criminal Code that determine the crime.

When charging the accused with several crimes determined by different articles, parts and items of the Criminal Code, the nature and legal qualification of each of those crimes shall be mentioned separately.

The resolving part of the resolution shall contain the ruling to bring the person to the case as an accused.

Article 362. Amend, dismissal and addition of charge

If in the course of investigation new evidences were collected entailing the necessity to revise the original charge or if inaccurate or incorrect legal qualification was detected in the original charge, it shall be amended, partially dismissed or added. The investigator shall draw up a resolution thereof, in which he shall present the nature of the new charge.

The charge shall be dismissed if circumstances have been discovered that serve as grounds for rehabilitation of the accused or impeding the case proceeding as determined by article 83, parts one and four of article 84 of this Code.

The investigator shall issue a resolution on charge dismissal. With the same resolution the investigator shall cancel the measure of constraint applied to the accused, imposition of property impoundment, removal from office and shall tell the person of the right of indemnification of damage inflicted through unlawful bringing him to the case as an accused. The copy of the resolution shall have to be handed immediately or mailed to that person.



### Article 363. Reinstatement of the dismissed charge

The dismissed charge may be reinstated if the dismissal came as a result of an error in application of norms of the Criminal Code or this Code and if the new evidences of guilt of the accused were discovered. In such cases and if the wrong charge dismissal was the result of violation of criminal procedure norms or the result of forgery, concealment or destruction of evidence committed by the accused or other person acting upon the request thereof or with the consent thereof, the charge may be reinstated within the time limitation prescribed by article 64 of the Criminal Code.

### Chapter 45. Suspension and revival of the preliminary investigation

Article 364. Grounds for and procedure of suspension of the preliminary investigation

Article 365. Announcement of retrieval

Article 366. Suspension of the preliminary investigation in case of the sickness of the accused

Article 367. Suspension of the preliminary investigation in case of failure to identify the person subject to bringing to the criminal case as an accused

Article 368. Suspension of the preliminary investigation in case of exit of the accused from the Republic of Uzbekistan

Article 369. Resolution regarding suspension of preliminary investigation

Article 370. Actions of the investigator after the suspension of preliminary investigation

Article 371. Revival of preliminary investigation in the suspended criminal case

Article 364. Grounds for and procedure of suspension of the preliminary investigation

Preliminary investigation shall be suspended due to:

- 1) failure to identify a person subject to bringing to the case as an accused;
- 2) unknown location of the accused;
- 3) exit of the accused beyond the Republic of Uzbekistan if it is impossible to provide for the one's appearance at investigation;
- 4) grave, long-lasting but curable disease of the accused that prevents the one's participation in the proceeding.

Preliminary investigation shall be suspended from the moment of appearance of the grounds stipulated by part one of this article. However, before the suspension of the preliminary investigation the

investigator shall be obliged to fulfil all of the investigative actions possible to proceed in the absence of the accused.

The investigator shall issue a resolution on the suspension of the preliminary investigation, the copy thereof shall be forwarded to the procurator.

#### Article 365. Announcement of retrieval

When the location of the accused is unknown, the investigator shall be obliged to undertake all of the necessary measures towards finding the location and when necessary announce a retrieval.

The investigator shall be entitled to announce retrieval of the person for whom there is a resolution on bringing the one to the case as an accused.

The retrieval can be announced in the course of preliminary investigation and after the suspension thereof.

In the presence of grounds stipulated by articles 242 and 243 of this Code, the investigator can choose commitment to custody as a measure of constraint for the absconding person with the authorization of the procurator.

If the absconding accused is detained the procurator shall be obliged to confirm the identity of the detained to the person accused and verify the presence of lawful grounds for the arrest.

#### Article 366. Suspension of the preliminary investigation due to the sickness of the accused

In the event of recognition by the forensic expert or expert-psychiatrist of the grave, long-lasting disease curable but excluding the possibility of participation thereof in the proceeding of the case, the preliminary investigation shall be suspended until the recovery of the accused.

Therewith the measure of constraint chosen in respect of the accused may be preserved, amended or cancelled by the investigator with the observance of the rules stipulated by articles 236-254 of this Code.

#### Article 367. Suspension of the preliminary investigation in case of failure to identify the person subject to bringing to the criminal case as an accused

If after the conduct of all of the investigative actions the person subject to bringing to the case as an accused is not determined, the proceeding can be suspended.

In such cases the investigator shall be obliged to undertake measures towards determining the person subject to bringing to case as an accused and holding him responsible.

Upon the expiration of time limitations for holding responsible as stipulated by article 64 of the Criminal Code, the case suspended on the basis of failure to identify the person subject to bringing to case as an accused, shall be dismissed.

Article 368. Suspension of the preliminary investigation if an accused leaves the Republic of Uzbekistan

If it is determined that the accused left the Republic of Uzbekistan and this circumstance impedes his appearance, the preliminary investigation shall be suspended after all of the investigative actions have been conducted.

Article 369. A resolution regarding suspension of preliminary investigation

Preliminary investigation on criminal case shall be suspended by a resolution of the investigator. The resolution shall indicate the nature of the case and grounds for suspension, and in cases stipulated by points 2, 3 and 4 of part one of article 364 of this Code the resolution shall indicate the accused person.

Having suspended preliminary investigation the investigator shall notify thereof the victim, the civil claimant, civil respondent and their representatives.

Article 370. Actions of the investigator upon the suspension of preliminary investigation

Depending on the grounds for suspension of the preliminary investigation the investigator shall be regularly apprized of the measures conducted by the interior agency and other competent agencies towards detection of persons subject to bringing to the case as accused; in order to find the absconding accused he shall forward requests, make inquiries, receive explanations, use public help, or shall regularly apprise oneself on the disease of the accused that led to the suspension of the preliminary investigation. If the accused left the Republic of Uzbekistan the

investigator shall undertake measures pursuant to the legislation and international agreements regulating the extradition of persons accused of committing crimes and hiding on the territory of other countries.

Article 371. Revival of preliminary investigation on the suspended criminal case

A suspended preliminary investigation of a criminal case shall revive if:

- 1) circumstances stipulated by article 364 of this Code as grounds for suspension have been eliminated;
- 2) it becomes necessary to conduct additional investigative actions that can be undertaken without the participation of the accused;

A resolution regarding suspension of preliminary investigation can be cancelled as inconsistent with law and preliminary investigation revived by a resolution of the procurator.

The investigator shall immediately notify the procurator of the revival of the preliminary investigation.

Together with the revival of the preliminary investigation the duration of the time limit of preliminary investigation shall be revived. Further extension of the time limit of investigation shall be done on the basis of article 351 of this Code with the account of time limit of investigation prior to the suspension of the preliminary investigation.

#### **Chapter 46. End of the preliminary investigation**

Article 372. Types of completion of the preliminary investigation

Article 373. Dismissal of criminal case

Article 374. Resolution regarding criminal case dismissal

Article 375. Provision of the right to familiarize oneself with the materials of the criminal case upon completion

Article 376. Procedure of familiarization with materials of the criminal case

Article 377. Procedure for filing a complaint and resolving of motions

Article 378. Repeat familiarization with the criminal case upon the allowance of motions

Article 379. Indictment

Article 380. Attachments to indictment

Article 381. Forwarding the criminal case to procurator

Article 372. Types of completion of the preliminary investigation

Preliminary investigation shall end with a resolution regarding dismissal of the criminal case, indictment or resolution regarding forwarding the case to the court for the application of the compelled medical measure

Article 373. Dismissal of a criminal case

A criminal case shall be dismissed if grounds stipulated by articles 83 and 84 of this Code are present.

Article 374. A resolution regarding criminal case dismissal

A resolution regarding the case dismissal shall be formulated pursuant to the established rules.

The descriptive part of the resolution shall contain:

- 1) grounds for the institution of the criminal proceeding and probable cases verified during the investigation;
- 2) information of people brought to case as suspects and accused, of actions incriminated and measures of constraint applied; if the suspicion or charge against these persons was not dismissed earlier by a separate resolution;
- 3) grounds for case dismissal;
- 4) evidences proving these grounds with the indication of references to volumes and pages of the case;
- 5) list of physical exhibits with the indication of location of those objects, proprietors thereof, as well as motions of interested parties and institutions regarding the delivery thereof to them if such motions were not brought before;
- 6) measures of provisions for the civil claim and possible confiscation of property.

In the resolving part of the resolution the rulings shall be written:

- 1) regarding case dismissal
- 2) regarding alleviation of suspicion or accusation;
- 3) regarding the cancellation of constraint measures as well as measures for the provision of the civil claim and possible confiscation of property;
- 4) regarding physical evidence.

Following the issue of the resolution regarding case dismissal the investigator notifies thereof the suspect, accused, defense attorney, victim, civil claimant, civil respondent and representatives thereof as well as representatives of an enterprise, an institution, organization or a citizen pursuant to whose information the proceeding was instituted.

Therewith they are told of their right to complain to the procurator against the resolution on case dismissal.

If the case dismissal was instituted by court the respective court shall be informed thereof.

If the case dismissal concerned a conscript the investigator shall notify the district (town) department of defense in writing within seven days.

Article 375. Provision of the right to familiarize oneself with the materials of the criminal case upon completion

After recognizing the collected evidence as sufficient for writing an indictment the investigator shall announce to the accused and the defense attorney the completion of preliminary investigation, telling them of their right to familiarize themselves with all of the case materials and hand them the case for familiarization.

If the case is dismissed the investigator shall notify the suspect, the accused, defense attorney of the right to familiarize themselves with case and upon their request hand the case for familiarization.

The investigator shall notify the victim, the civil claimant, civil respondent and representatives thereof of the end of the preliminary investigation; the investigator shall inform them that the case with the indictment will be forwarded to court or that it will be dismissed and shall explain to them their right to familiarize themselves with the case materials if they wish so. Thereafter the investigator shall give them the case for familiarization as per the request of the indicated participants of the proceeding.

To provide security for the victims, witnesses, attesting witnesses and other participants of the proceeding the introductory parts of the reports of investigative actions may not be given for familiarization. In such cases the introductory parts of reports containing personal information about the participants of the proceeding shall be stored in the sealed form.

If the defense attorney of the accused or the representative of the victim, the civil claimant, civil respondent cannot appear for familiarization at the appointed time due to valid reasons, the investigator shall postpone the familiarization for the term not exceeding five days. If the defense attorney or the representative fail to appear within that time period the accused shall be provided with an opportunity to have another defense attorney, and the victim, the civil claimant or the civil respondent - to have another representative.

Article 376. Procedure of familiarization with materials of the criminal case

The investigator shall present the case materials for familiarization in a filed and paginated form with the inventory checklist of documents in each file.

Time needed for familiarization with case materials shall not be limited. However, should the participants of the proceeding try to obviously stretch the time the investigator shall be entitled to issue a resolution determining a certain time period for familiarization.

The person familiarizing oneself shall be entitled to make excerpts from documents of the case except for the information containing state secrets.

The investigator shall draw up a record on familiarization with case materials.

The investigator shall include in the record verbal motions brought after familiarization with the case. The participants of the proceeding shall be entitled to bring the motion separately which shall be noted in the record.

Article 377. Procedure for filing a complaint and resolving of motions

Following the familiarization of the accused, the defense attorney, the victim, the civil claimant, the civil respondent and representatives thereof with case materials or refusal to do so due to some reasons, the investigator shall clarify whether they have motions regarding the proceeding of additional investigative actions or adopting new rulings. (The edition of the Law of RU No 357-I of 27 December 1996).

As per the parties request they can be given time within three days for preparation and bringing a motion. An investigator shall issue a resolution regarding the complete or partial rejection of motion, and a person who brought the motion shall be notified thereof within three days.

A plaintiff can complain within two days from the moment of familiarization with the resolution regarding rejection to the procurator against the rejection to grant the motion.

Article 378. Repeat familiarization with the criminal case upon the allowance of motions

Having satisfied the motion, the investigator irrespective of who brought the motion or whose interests it concerns, shall give another opportunity to the accused, defense attorney and the victim, civil claimant, civil respondent and representatives thereof to familiarize with the case materials. (The edition of the Law of RU No 357-I of 27 December 1996)

#### Article 379. Indictment

After the familiarization of the accused and the one's defense attorney with all of the case materials the investigator shall draw up the indictment if the one's conclusion of sufficiency of grounds for forwarding the case to the court has not changed.

The indictment shall consist of the descriptive-explanatory and resolving parts. In the descriptive part the circumstances determined by the preliminary investigation shall be stated: information on the victim and the accused; evidences confirming the guilt of the accused; arguments of the accused in one's favor and the results of verification of those arguments.

The resolving part shall contain the information on the personality of the accused and the brought charge with reference to the article or articles of the Criminal Code envisaging this crime.

The indictment shall have the references to the page numbers of the case that contain confirmation of the statements thereof. The investigator shall sign the indictment with the indication of the location and time of elaboration thereof.

#### Article 380. Attachments to indictment

The indictment shall have the attachment of the list of persons that are, in the investigator's opinion, subject for summoning to trial, certificates of the constraint measures with the indication of time periods of confinement of the suspect and the accused, on the measures towards provision of the civil claim and possible confiscation of property, and of the proceeding costs.

The investigator shall indicate the contact details for the persons included in the list of those subject to summoning to trial and provide references to the pages of the case where the testimonies or evidences thereof are.

With the purpose of providing security for the victims, witnesses, attesting witnesses and other participants of the proceeding the list of persons subject for summoning to trial may contain pseudonyms thereof.



Information of the persons who need security shall be presented to court in the sealed form together with the introductory parts of records of investigative actions conducted with the participation thereof. Only the procurators approving the indictment and judges hearing the case may familiarize themselves with that information.

Article 381. Forwarding the criminal case to procurator

After signing the indictment the investigator immediately forwards the criminal case to the procurator.

#### **Chapter 47. Supervision of the due course of law in the inquiry and preliminary investigation agencies**

Article 382. Procurator's powers

Article 383. Procurator's powers in multi-episode criminal cases

Article 384. Issues resolved by procurator on the criminal cases with indictment

Article 385. Procurator's ruling on the criminal cases with indictment

Article 386. Ruling on the measure of constraint

Article 387. Amendments to the list of persons subject to summoning to trial

Article 388. Forwarding the case to the court

Article 382. Procurator's powers

Procurator performs the supervision of the due process in the inquiry and preliminary investigation stages. The object of the oversight shall be the procedures determined by this Code for consideration and resolution of applications and information on crimes and conduct of investigation, legality of the rulings made.

Within supervisory function of due process by the inquiry and preliminary investigation agencies procurator shall have powers to do the following:

- shall request from the inquiry and preliminary investigation agencies the documents, materials, other data on committed crimes, on the course of operative-search activity; at least once a month shall check on the observance of legal requirements of receipt, registration and resolution of applications and messages on committed crimes and crimes in preparation;
- cancel unlawful and ungrounded resolutions of inquiry officers and investigators;

- shall give written instructions on the investigation of crimes, on the choice, amend or cancellation of the constraint measures, on the qualification of the crime, on bringing persons to the case as the accused, on proceeding of investigative actions and search for persons who committed crimes;
- shall assign the inquiry agency to execute resolutions on detention, compelled summoning, commitment to custody, retrieval of the absconding persons, conduct of search and seizure, execution of other investigative actions, give other instructions on the execution of the necessary measures towards disclosure of crimes and discovery of persons that committed crimes, on the cases set in the proceeding of a procurator or an investigator of the prosecution office;
- shall participate in the proceeding of inquiry, preliminary investigation and, if necessary, personally conduct certain investigative actions or the entire investigation on any case;
- shall issue warrants for search, imposition of arrest on mail and telegraph correspondence and seizure thereof, on wire-tapping of telephones and other communication media, removal from office of the accused and other actions of the inquiry agency and investigator in the instances determined by law;
- shall extend time limits for investigation and commitment to custody as a measure of constraint in the instances and pursuant to procedures determined by this Code;
- shall remit the case to the inquiry and preliminary investigation for additional investigation;
- Shall withdraw any case from the inquiry agency and hand it to an investigator or transfer it from one preliminary investigation unit to another, or from one investigator to another;
- Shall discharge an inquiry officer or an investigator from further conduct of inquiry or preliminary investigation if he violated the due process;
- Shall institute a criminal proceeding or dismiss or suspend the proceeding, authorize case dismissals by the investigator in the instances determined by law, approve indictments or resolutions, forward cases to court.

Procurator's instructions to the inquiry agency and preliminary investigation agencies in conjunction with pre-investigation checking, institution of criminal proceeding and investigation in compliance with the procedure determined by this Code shall be mandatory to fulfil by these agencies.

Article 383. Procurator's powers in multi-episode criminal cases

In the multi-episode criminal cases the procurator or his deputy having recognized collected evidence regarding a certain person in specific episodes of the charge sufficient for indictment shall be entitled to issue a written instruction on completion of the investigation and forwarding the case to court on the episodes thereof.

Article 384. Issues resolved by procurator on the criminal cases with indictment

Procurator or the one's deputy shall be obliged to study the criminal case received from the investigator with the indictment and check on the following:

- 1) whether the action incriminated to the accused actually took place, and if yes whether that action has corpus delicti - formal components of crime;
- 2) whether the charge is grounded by the evidences available in the case;
- 3) whether the proved criminal actions are included in the substance of charge;
- 4) whether all persons who have been found to have complicity in crime are brought to the case as accused;
- 5) whether the circumstances are available that entail charge and case dismissal;
- 6) whether the actions of the accused are qualified in the correct way;
- 7) whether the measure of constraint was chosen correctly;
- 8) whether measures have been taken towards providing the civil claim and possible confiscation of property;
- 9) whether the causes of crime are identified and measures have been taken towards elimination thereof;
- 10) whether the investigation have been conducted thoroughly, comprehensively, completely and objectively;
- 11) whether the indictment was drawn up pursuant to requirements determined by articles 379 and 380 of this Code;
- 12) whether the inquiry officer and investigator observed other requirements stipulated by this Code.

Article 385. Procurator's ruling on the criminal cases with indictment

The procurator or the one's deputy shall be obliged within five days to consider the criminal case containing the indictment and take one of the following rulings:

- 1) approve with one's signature the indictment acknowledging that there are grounds for forwarding the case to court;
- 2) exclude by the one's resolution certain items from the indictment, apply the law for less severe crime and approve the indictment with these amendments;

- 3) remit the case to the investigator with the one's instructions for additional investigation;
- 4) suspend the proceeding of the case;
- 5) dismiss the case.

If it is necessary to amend the indictment or change it to a more severe one or the one considerably different from the original as per the factual circumstances, the procurator or the one's deputy remits the case to the additional investigation for additional or amended indictment.

#### Article 386. Ruling on the measure of constraint

The procurator or the one's deputy shall be entitled to cancel, amend or change the measure of constraint on a criminal case with the indictment, if that was not chosen theretofore. Therewith the rules of chapter 28 of this Code shall be applied.

#### Article 387. Amendments to the list of persons subject for summoning to trial

Procurator or the one's deputy shall be entitled to issue a resolution thereby to reduce or expand the list of persons subject for summoning to court before forwarding the criminal case to court. The list should include the accused, legally able victims, lawful representatives of the accused minors and persons recognized as civil claimants or those brought to the case as civil respondents and representatives thereof. The list cannot include additionally the persons who were not interrogated at the preliminary investigation as witnesses and who did not give examination reports as experts.

#### Article 388. Forwarding the case to the court

Having approved the indictment, a procurator or his deputy shall forward the case to court in whose jurisdiction it is set for hearing. To the same court all the motions and complaints shall be forwarded together with the case to be considered during the trial (in the edition of the Law of RU No 357-I of 27 December 1996).

A procurator or his deputy shall immediately notify an accused and a defense attorney, a victim, civil claimant, civil respondent and representatives thereof and informs them of their right to present to court all of the motions during the trial. Therewith a procurator or his deputy shall forward to the accused and defense attorney the certified copies of indictment and attachments to it with the exclusion of the list of persons subject to summoning to trial. If the indictment or the attachments were amended - the copy of the resolution on the amendment.

Section 10. Trial at court of first instance

Chapter 48. Jurisdiction

- Article 389. Jurisdiction of criminal cases  
 Article 390. Right of superior court to consider criminal case under trial at lower court  
 Article 391. Territorial jurisdiction of criminal case  
 Article 392. Jurisdiction during unification of criminal cases  
 Article 393. Transmission of criminal case on jurisdiction  
 Article 394. Inadmissibility of debates over jurisdiction

The article 389 was amended to include Part five by the Law of RUz # 485-I of 30.08.97

Article 389. Jurisdiction of criminal cases

All criminal cases, other than under jurisdiction of higher and military courts, shall be under jurisdiction of district (town) courts.

The Supreme court of the Republic of Karakalpakstan, regional courts and the Tashkent city court shall have all the cases on the offences, provided in the Part two of the Article 97, Part 4 Article 118, Part 4 Article 119, Articles 150, 153, 155, 157, 158, parts 3 and 4 of the Article 159, Articles 160, 161, Part 4 Article 167, Part 3 Article 176, Article 178, Part 3 Article 210, Articles 230, 231, 324-236, 242, 244-246, part 2 article 272 of the Criminal Code, under own jurisdiction. (Law edition as of 22.12.95)

Jurisdiction of cases to military courts shall be established by the legislation on military courts.

The Supreme Court of the Republic of Uzbekistan shall examine the cases of special complexity and importance.

The Chairman of the Supreme Court of the Republic of Uzbekistan, the Chairman of the Supreme Court of the Republic of Karakalpakstan, Chairmen of regional courts, the Tashkent city court, the Chairman of the Military court of the Armed forces may transfer a case on the offence, provided in the part two of this Article, to consideration of a district (town) court and military court of a garrison, if such case is not complex by its nature. (Introduced by Law of RUz # 485-I of 30.08.97)

Article 390. Right of superior court to consider criminal case under trial at lower court

A superior court may adopt any case under jurisdiction of a lower court for its own consideration as a court of first instance.

Article 391. Territorial jurisdiction of criminal case

A criminal case shall be considered at the area where the respective offence was committed.

If the area, where the offence was committed, cannot be identified, the court of the district where the preliminary inquiry was completed shall consider the case.

In case of lasting or continued offences, the case shall be under jurisdiction of the court within the area, where the offence was terminated or suppressed.

Article 392. Jurisdiction during unification of criminal cases

In case of unification of several cases under one trial on accusing several persons in committing offences in various districts or accusing one person in committing several offences, if such cases stay under jurisdiction of two or several courts of one level, such case shall be considered by the court of the area where the preliminary inquiry was completed.

In case of accusing of one or a group of persons in committing several offences that are under jurisdiction of different courts, the cases on those offences shall be tried by the superior court.

If a case on accusing of one person or a group of persons in committing several offenses is under jurisdiction of the military court with respect to at least one person or at least one offence, the case on all offences and with respect to all persons shall be tried by the military court.

Article 393. Transmission of criminal case on jurisdiction

With a view of a more complete, objective and timely consideration, a criminal case may be transferred from one court to another as decided by the chairman of a superior court.

A ruling on directing a case to the court of a different region or the Republic of Karakalpakstan shall be made by the Chairman of the Supreme Court of Republic of Uzbekistan.

If, during assigning a criminal case, a judge establishes that the case is beyond the jurisdiction of his court, he shall issue a determination on directing the case to the respective jurisdiction.

Transmission of a case shall be allowed only before consideration of the case at the court session.

If jurisdiction of case to another equal court was revealed during the court session, the court shall continue to try the case if this does not prejudice investigation of the case, otherwise the court shall transfer the case to respective jurisdiction and adopt respective determination.

The court that revealed jurisdiction of a case of a superior court or the military court shall transfer the case to the respective jurisdiction and adopt the respective determination.

Transmission of a case, tried at a session of a superior court, to a lower court shall not be permitted.

#### Article 394. Inadmissibility of disputes over jurisdiction

Disputes between courts on jurisdiction shall not be permitted. A criminal case, transferred from one court to another in the procedure prescribed in this Code, shall be unconditionally adopted for consideration.

#### Section 49. Instituting criminal case for court examination

Article 395. Procedure for instituting criminal cases for court examination or adoption of different ruling

Article 396. Facts to be verified before instituting criminal case for court examination

Article 397. Ruling on instituting criminal case for court examination

Article 398. Securing compensation for mischief and seizure

Article 399. Abeyance of criminal case

Article 400. Transfer of criminal case to procurator

Article 401. Discontinuance of criminal case

Article 402. Familiarizing parties with criminal case materials

Article 403. Summons to court session

Article 404. Appeal and protest against determination of court on return of criminal case on additional investigation and on discontinuance of case

Article 405. Term of beginning of judicial proceedings

(Article 395 represented in the edition of the Law #357-I of 27.12.96)  
(Old edition)

Article 395. Procedure for instituting criminal cases for court examination or adoption of different ruling

A judge that received a criminal case with the indictment or determination to transfer the case to the court for consideration of applicability of coercive medical treatment, shall issue a ruling (determination) on one of the following:

- 1) instituting case to court examination;
- 2) abeyance of criminal proceedings;
- 3) close of criminal case proceedings.

The matter of institution of judicial proceedings or adoption of other rulings shall be considered by the judge within a term not exceeding seven days from the moment of delivery of that case to the court. This term may be prolonged by the chairman of that court but not for more than three days.

Article 396. Facts to be verified before instituting criminal case for court examination

Before assigning a criminal case to the examination in court, a judge shall clarify the following with respect to the accused:

- 1) if the case is under the jurisdiction of that court;
- 2) if there exist any circumstances that may lead to abeyance or close of the case;
- 3) if there are enough grounds for examination of the case in a court;
- 4) if all provisions of this Code have been observed during preliminary inquiry and inquest;
- 5) if correct preventive punishment has been applied with respect to the accused;
- 6) if the indictment act is produced in accordance with the provisions of this Code.

Article 397. Ruling on instituting criminal case for court examination  
(Edition of Law # 357-I of 27.12.96)



A ruling on instituting a criminal case to court examination shall specify the following: (In the Law edition # 357-I of 27.12.96)

- 1) the time and venue of ruling;
- 2) the title and the name of the judge;
- 3) the first, second, last names of the person under trial and the article of the Criminal Code he is charged with; (Law edition # 357-I of 27.12.96);
- 4) conclusion on adequacy of grounds for examination of the case in a court;
- 5) ruling on preventive punishments with regards to the persons under trial;
- 6) participation of an attorney and public procurator in judicial proceedings;
- 7) the time and venue of proceedings.

Article 398. Securing compensation for mischief and seizure

Upon verification the fact, that during preliminary inquiry no measures were taken to provide compensation for mischief caused by the offence and possible seizure of property, and that such measures may not be taken directly by the court, the judge shall oblige the investigator to take the necessary measures.

Article 399. Abeyance of criminal case

Where it is revealed, during consideration of a matter on institution of a criminal case to court examination, that the accused person has absconded, the judge shall issue a determination on suspending legal proceedings with respect to the accused person and proclamation of a search for that person, except for the cases, prescribed in the articles 410 and 418 of this Code. Simultaneously, a matter of alteration of the preventive punishment shall be resolved.

If the fact of a serious and lengthy illness of the accused is attested by forensic medicine examination, that excludes him from participating at the trial, the judge shall issue a determination on abeyance of legal proceedings until the recovery of the accused.

Article 400. Transfer of criminal case to procurator

The case suspended in accordance with the part one of the article 399 of this Code shall be transferred to the procurator, who has approved the indictment for taking respective measures to search the accused.

Article 401. Close of criminal case

In the presence of the facts, provided for in the article 83, part 1 of the article 84 of this Code, a court shall discontinue the criminal case. The court shall reverse all preventive punishments, measures providing civil suit and forfeiture, and solve all issues regarding exhibits.

A court may discontinue a case on the grounds provided for in the part four of the Article 84 of this Code.

Both the accused and the victim shall be informed on abolishing the case.

Article 402. Familiarizing parties with criminal case materials

After assigning a case to the examination in court, a judge shall provide a procurator, attorney, public procurator, public defender and a person under trial, victim, civil plaintiff, civil defendant and representatives thereof with an opportunity to familiarize themselves with all materials of the case and extract any information needed if they have not been familiarized thereon during the preliminary inquiry.

Article 403. Summons to court session

A judge shall issue an order on summoning the persons named in that order, ensure serving subpoenas and take other measures to prepare the court session. (Edition of the Law of RUz #357 of 27.12.96)

Article 404. Appeal and protest against determination of court on return of criminal case on additional investigation and on discontinuance of case

The accused, victim may lodge a private appeal and the procurator may enter a private protest against determination of the court on returning the criminal case for additional investigation or abolishing the case.

Article 405. Term of beginning of judicial proceedings

A court shall begin processing a criminal case within the term of fifteen days from the moment of issuing the ruling on instituting the case to court examination. (Editions of Laws # 357-I of 27.12.96, # 729-I of 25.12.98)

## Chapter 50. General rules of trial

Article 406.	Invariability of court composition during hearings of criminal case
Article 407.	Reserve assessor
Article 408.	Presiding in session of court
Article 409.	Participation of procurator in trial
Article 410.	Participation of person under trial
Article 411.	Consequences of default of appearance by victim
Article 412.	Consequences of default of appearance by procurator, attorney, public procurator, public defender
Article 413.	Consequences of default of appearance by civil plaintiff or civil defendant
Article 414.	Limitations of trial
Article 415.	Altering charge by court
Article 416.	Instituting criminal case on new indictment
Article 417.	Instituting criminal case against new person
Article 418.	Deferring trial
Article 419.	Returning criminal case for additional investigation
Article 420.	Abeyance of court examination
Article 421.	Close of case during court session
Article 422.	Deciding preventive punishment measures
Article 423.	Procedure of issuing determinations at court sessions
Article 424.	Regulations of court sessions
Article 425.	Measures against persons breaching court order
Article 426.	Court records
Article 427.	Remarks on court records and procedure for consideration thereof

Article 406.	Invariability of court composition during hearings of criminal case
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Any criminal case shall be examined by the same composition of judges or a judge.

Article 407. Reserve assessor

Where a case demands significant time for examination, a reserve assessor may be involved, that shall be present at the court sittings from the beginning of the trial and have the rights of a judge except for the right to participate in the court deliberation and adopting rulings on the case.

If an assessor leaves the court, a reserve assessor shall replace the person withdrawn and the trial shall proceed.

#### Article 408. Presiding in session of court

A chairman of a court, a deputy thereof or a judge shall preside at the trial.

The presiding shall administer the trial; take all the measures pursuant to this Code to procure a thorough, comprehensive, complete and objective examination of all circumstances of the case and ascertainment of the truth and exclude all the irrelevant to the case.

The presiding shall look after the maintenance of order at a session and his orders shall be binding for all parties and persons present.

If a party or any other person objects to any action of the presiding, that objection shall be entered into the court records.

#### Article 409. Participation of procurator in trial

The procurator that participates the trials by the courts of the first instance shall participate in examination of the evidence, ask questions to the persons standing the trial, victims, witnesses, experts and other persons summoned to the court and express own opinion on application of regulations of the Criminal code, appraising actions of the person under trial and imposing the type and extent of a punishment and other matters to be resolved by the court; represent own conclusion on the grounds and circumstances that caused commitment of the offence and measures for removing thereof.

A procurator shall sustain the public charges, be guided by the requirements of this Code, other laws of Republic of Uzbekistan and own convictions based on examination of all facts of the case.

If a procurator concludes on the grounds of inquest that the charge preferred against the person under trial must be altered, he shall produce a motivated statement thereon to the court.

If a procurator comes to believe on the innocence of the person under trial on the basis of the inquest, he shall dismiss the charges and produce the motives for that dismissal to court.

The conclusion of a procurator on altering the wording of the charge or motivation for dismissing the charge shall be submitted to the court in written.

A procurator shall advance or sustain a civil claim by the victim if so require protection of the rights of citizens and society.

A procurator may participate in a court of appeal or surveillance while examining criminal cases or resolving matters related to serving a sentence or other matters, as the case may be, prescribed in this Code.

#### Article 410. Participation of person under trial

A trial in a court of first instance shall be conducted with participation of a person under trial whose appearance in court shall be compulsory.

In case of default of the person under trial to appear, the session shall be deferred, except for the case prescribed in the part three of this article. The court may impose a forcible bringing to court on a person under trial that defaulted to appear, and impose or change the preventive punishment in respect of that person.

A trial in the absence of the person to stand the trial shall be permitted only if that person is outside of the Republic of Uzbekistan and absconding during the trial and non-appearance of that person does not prevent from ascertaining the truth on the case, or if that person is removed from the courtroom on the procedures, prescribed in the article 272 of this Code.

#### Article 411. Consequences of default of appearance by victim

In case of non-appearance of a victim, the matter of continuing the trial in his absence shall be resolved by the court, depending on whether all facts of the case may be clarified and his rights and legal interests be defended.

In case of non-appearance of a victim without valid reasons, the court shall issue a determination on bringing him before the court.

The Article 412 amended according to the Law of RUz # 485-I of 30.08.97)

Article 412. Consequences of default of appearance by procurator, attorney, public procurator, public defender

Where a procurator fails to attend the court session, the examination of the case shall be deferred.

Where an attorney fails to attend the court session, that attorney may be replaced only with the consent of the person under trial. Where such replacement is not possible, the hearings shall be deferred.

Where a public procurator or public defender fails to attend a court session, the court shall resolve, as the case may be, whether the case may be examined in the absence thereof or deferred.

A newly appointed procurator or attorney shall be provided with enough time to prepare for participation in the trial.

Non-appearance without valid reasons by a procurator or an attorney shall be communicated to a higher procurator or advocate qualification commission. Where a public procurator or public defender fails to appear, such non-appearance shall be communicated to the respective public association or collective. (Law edition # 485-I of 30.08.97)

Article 413. Consequences of default of appearance by civil plaintiff or civil defendant

Where a civil plaintiff or a representative thereof fails to appear, the court shall leave the civil suit without examination; at that, the person who suffered a mischief shall retain the right to bring the suit according to the procedures of civil proceedings.

A court may examine a suit in the absence of a civil plaintiff on a solicitation thereof.

A court shall examine a suit regardless of the appearance of a civil plaintiff or a representative thereof, where a procurator sustains the suit or the court decides so.

Non-appearance of a civil defendant or a representative thereof shall not suspend examination of a civil suit.

Article 414. Limitations of trial

A court shall examine a criminal case in respect of the accused persons only.

Where a case is examined after vacating a sentence due to leniency of the penalty imposed or a need to apply a law on an aggravated assault, the case shall be examined in respect of the qualification of the offence and the punishment, without broaching the matter of guilt at all.

#### Article 415. Altering charge by court

A court is entitled to alter the charge. At that, the parts of the charge and qualification features of the offense shall be excluded.

A charge may not be increased by the court or replaced with another, with factual circumstances significantly different from the initial.

#### Article 416. Instituting criminal case on new charge

Where an investigation in court has established the facts supporting commitment by the person under trial of an offense, he was not previously charged with, the court shall issue a determination on instituting a case on a new charge, without suspending the trial, and send that determination and other necessary materials for a preliminary inquiry.

In the case, where a new charge is closely related to the initial charge and a separate examination of those charges is not feasible, the whole case shall be returned for additional investigation.

On the grounds of a new charge, a court may change or choose other preventive punishment in respect of the person standing the trial.

Where an investigator or procurator had issued an order refusing to institute legal proceedings or closing the case in respect of the facts that gave occasion to instituting a case on a new charge, the court shall repeal that order.

#### Article 417. Instituting criminal case against new person

Where an inquest in court has revealed the facts supporting commitment of an offence by a person, on whom no charges were previously imposed, the court shall produce a determination on instituting criminal proceedings against that person and send the determination with other required materials for additional investigation.

In those cases, where a newly instituted criminal case is closely related to the case being examined and a separate examination of those cases is not feasible, the court shall send the case for additional preliminary inquiry.

Where an investigator or procurator had issued an order refusing to institute legal proceedings or closing the case in respect of the facts that gave occasion to instituting a case in respect of a new person, the court shall repeal that order.

Instituting a charge against a witness, victim, expert or translator who knowingly made a false statement or translation shall take place at the same time as the verdict is issued.

A court may impose a preventive punishment in respect of the person against whom a criminal case is instituted.

#### Article 418. Deferring trial

Where it is impossible to examine a criminal case due to non-appearance of any of the persons summoned or due to the need to demand new evidence, a court may defer the hearings and take actions to subpoena the persons who failed to appear or demand additional evidence.

#### Article 419. Returning criminal case for additional investigation

A court shall return the case for additional investigation for not more than two times, in the following cases:

- 1) incomplete preliminary inquiry that cannot be compensated at the trial;
- 2) substantial violations of the requirements of this Code by an investigator or inquiry officer, if that prejudices correct resolution of the case;
- 3) presence of grounds for bringing a new charge against the accused, that are related to the previous charges, or for replacing the charge for a heavier or substantially differing on the factual circumstances from the charge brought in the sentence;
- 4) presence of grounds to institute criminal proceedings against other persons within the same case if materials related to those persons cannot be separated from the case;
- 5) incorrect unification or separation of a case.



A court, returning a case to a procurator, shall include the grounds for that return and facts to be additionally clarified to the determination.

Article 420. Abeyance of court examination

Where a person to stand a trial has absconded, or became ill with a mental or other serious disorder, a court shall suspend examination in respect of that person and try the other accused persons. Where such separate examination complicates ascertainment of the truth, the whole proceeding shall be suspended. A search for the person absconded shall be declared in a court determination.

Where a court examination has been suspended due to a serious illness of the accused, the court shall deliberate the matter of disaffirmation or commutation of the preventive punishment with respect to the accused.

Article 421. Close of case during court session

Where a trial has revealed the grounds prescribed by the article 83 and the items 1,2,3 of the Part one of the Article 84 of this Code, the court shall proceed with the trial and issue a verdict of not guilty on the grounds prescribed pursuant to the article 83, whereas on the grounds prescribed by the items 1,2,3 of the Part one of the Article 84 - a verdict of guilty, imposing no punishment to that person.

Article 422. Deciding preventive punishment measures

A court may impose, change or reverse a preventive punishment in respect of the person standing the trial.

Article 423. Procedure of issuing determinations at court sessions

On all the matters that are resolved by court in the course of a trial, a court shall issue determinations.

In a separate (deliberation) room, a court shall issue determinations on dispatching a case for additional investigation, instituting a case on a new charge or against a new person, closing or suspending the case, imposing, changing or recalling a preventive punishment, challenging; and private determinations.

All other determinations may be produced in the discretion of the court either according to the procedure specified above or at directly the trial, entering the determination to the court records.

Article 424. Regulations of court sessions

Upon the entry of the court all persons present shall rise.

All parties to the trial shall stand while addressing to the court, testifying and making statements. Deviation from that rule shall be admitted only upon consent of the presiding.

All parties to the trial and other persons present at the trial shall implicitly obey with the orders of the presiding judge on maintaining the order at the session.

Persons under the age of sixteen, who are not the victims, persons standing the trial or witnesses, shall not be admitted to the trial.

Article 425. Measures against persons breaching court order

In the case of breaching the order at a trial, disobedience to the orders of the presiding or contempt of court, the court shall impose the measures prescribed according to the article 272 of this Code.

Article 426. Court records

The clerk of the court shall maintain the court records during the trial according to the rules prescribed by the article 90-92 of this Code.

The court records shall include: the time and venue of the trial, specifying the beginning and ending time thereof; names and composition of the court; clerk of the court, translator, procurator, attorney, person under trial, victim and the representative thereof, civil plaintiff and representatives thereof and other persons summoned; the case examined; personal data of the person under trial; witnesses appeared and failed to appear, specifying the reasons for non-appearance. The court records shall contain: all orders of the presiding and actions of the court in the same course as they took place, statements and pleas of the parties to the trial; detailed content of the testimony by the person under trial, victim and witnesses; responses by the expert to the questions; sequence of disputes, conclusions by the parties to the disputes and the final plea by the person under trial; statements on the facts during trying the case if so requested by the parties to the trial.

Where court considers it necessary, the witnesses and victims shall sign the court records under the testimony given thereby.

The presiding and the clerk of the court shall sign the court records.

In case of disagreement between the presiding and the clerk of the court on the content of the records, the clerk shall attach own remarks to the records to be considered by the court. On that matter a determination shall be issued and attached to the records.

In order to procure a completeness of the court records, stenography may be applied. Stenography records shall not be attached to the case. Sound and video recording, filming of interrogation may also be applied during the trial. In such case, the phonogram, videotape and film shall be attached to the records of the court that shall contain a note on applying thereof.

The records of the trial shall be signed not later than the next day after the verdict or within three days on complex cases.

Article 427. Remarks on court records and procedure for consideration thereof

The parties may submit own remarks to the records of the trial within five days after those records were signed. The presiding person shall consider the remarks, who, if agrees, shall certify correctness thereof and attach to the records.

If the presiding disagrees with the remarks to the records of the trial, those records shall be brought for consideration of the court in charge for that case. Where a judge has considered a case individually, the ruling of the presiding shall be definitive, but may be appealed or objected by the parties interested according to the procedure, prescribed by this Code.

Chapter 51. Preparatory part of trial

Article 428. Opening of trial

Article 429. Verifying of appearance of parties

Article 430. Explaining rights, responsibilities and amenability to translator

Article 431. Announcing composition of court, parties and explanation of right to challenge

- Article 432. Removing witnesses from courtroom  
 Article 433. Resolving possibility to examine case in absence of party  
 Article 434. Identification of person standing trial and time of handing of copies of procedure documents  
 Article 435. Explaining his rights to person under trial  
 Article 436. Explaining rights and responsibilities to parties  
 Article 437. Explaining rights and responsibilities to expert and specialist  
 Article 438. Soliciting and resolving solicitations

Article 428. Opening of trial

The presiding judge shall open the trial in the time assigned and announce the case to be tried.

Article 429. Verifying of appearance of parties

The clerk of the court shall inform on appearance of a public procurator, person under trial, public defender, victim, civil plaintiff, civil defendant and representatives thereof to the court. Then appearance of the translator, witnesses, experts and specialists to the court shall be verified. The clerk shall announce the reasons for non-appearance of the persons absent.

Identities of the persons participating in the trial shall be established from passports or other identification documents.

Article 430. Explaining rights, responsibilities and amenability to translator

The presiding judge shall explain to the translator his rights, responsibilities and amenability prescribed by the article 72 of this Code.

Article 431. Announcing composition of court, parties and explanation of right to challenge

The presiding judge shall announce the judges, public procurator, attorney, public defender, victim, civil plaintiff, civil defendant and representatives thereof, clerk of the court, expert, specialist, and translator. Afterwards the person under trial and other parties shall be informed on the right to challenge the judge, composition of court or any judge as well as to any other party.

Where an assessor seats at the trial, the presiding judge shall inform thereon and announce his name. One may also challenge a reserve assessor.

Challenges shall be resolved in accordance with the procedure prescribed by the article 80 of this Code.

Article 432. Removing witnesses from courtroom

The presiding judge shall order to remove witnesses from the courtroom to a separate premise. Henceforth he shall procure that the witnesses not questioned by the court do not communicate to the witnesses already questioned and other persons present at the trial.

Article 433. Resolving possibility to examine case in absence of party

Where any participant summoned to a trial fails to appear before court, the court shall listen to the parties on possibility to try the case and issue a determination on continuing or deferring the trial.

If the court issues a determination on deferring the trial, the court may question the witnesses and the expert who attended the trial. If the same court or judge consequently tries the case, another summons of the specified participants shall be permitted only in the case of need.

Article 434. Identification of person standing trial and time of handing of copies of procedure documents

The presiding judge shall identify the person to stand the trial, clarifying his last, first and middle names, date and place of birth, place of residence, occupation, backgrounds, marital status and other personal data.

Afterwards the presiding shall ask the person under trial if he has received copies of the indictment and other copies of procedural documents, specified in the part two of the article 388 of this Code. If such copies have not been handed to the person under trial or were handed less than three days before the beginning of the session, the trial shall be deferred.

Article 435. Explaining his rights to person under trial

Upon identification of the person under trial, the presiding judge shall explain his rights during the trial as prescribed in the article 46 of this Code. Afterwards the person standing the trial shall be asked if each of these rights is clear to him. If the answer is negative, the presiding judge shall explain the rights again, considering the age of the person under trial, general level of development, his mental and physical state.

Article 436. Explaining rights and responsibilities to parties

The presiding judge shall explain to the public procurator, public defender, victim, civil plaintiff, civil defendant and the representatives thereof, the rights and responsibilities thereof during the trial as prescribed by the article 43, 44, 55, 57, 61 and 63 of this Code.

Article 437. Explaining rights and responsibilities to expert and specialist

The presiding judge shall explain to the expert and specialist the rights and responsibilities thereof during the trial as prescribed by the article 68 and 70 of this Code.

Article 438. Soliciting and resolving solicitations

The preparatory part of a court session shall be completed by clarifying the matter of existence of any solicitations. The presiding shall ask the parties if they have any solicitations on summoning new witnesses, experts or specialists, demanding exhibits and documents. A soliciting party shall specify, for clarifying which particular facts the additional evidence is required.

In the course of discussing a solicitation of a party, the court shall listen to the other party and satisfy the solicitation if it is to clarify the facts related to the case and dismiss the solicitation otherwise.

A refusal to satisfy a solicitation may not deprive a party from the right to bring that solicitation again on new grounds in the course of the trial.

A court shall be entitled to issue a determination on its own initiative to summons new witnesses, assigning an expert examination, demanding new documents and other supplementary evidence.

Where a court finds it necessary to investigate supplementary evidence, the court shall either continue the trial, having procured appearance of the new witnesses and experts to the trial, demanding the documents; or defer the trial.

Chapter 52. Investigation in court

- Article 439. Beginning investigation in court
- Article 440. Determining sequence of investigation of evidence
- Article 441. Oath of witness and warning him on responsibility
- Article 442. Procedure of questioning in court
- Article 443. Examination of written evidence, conclusions of experts and protocols of investigations
- Article 444. Examining
- Article 445. Observation
- Article 446. Expert examination
- Article 447. Presenting for identification, conduct of experiment, sampling for expert examination
- Article 448. Ending examination in court

Article 439. Beginning investigation in court

The presiding judge shall announce the beginning of investigation in court. An investigation in court shall begin from announcement of an indictment. The presiding judge shall ask the persons under trial if they plead guilty.

Article 440. Determining sequence of investigation of evidence

Upon questioning the persons under trial on pleading guilty or not guilty, a court shall proposals of the parties on the sequence of examining the evidence. That sequence shall be established in a determination.

Where an investigation began with questioning the persons under trial, the court shall question the victims afterwards. Where a person under trial refuses to give testimony or refuse to testify until the investigation of other evidence, the matter of sequence of questioning the victims, witnesses, performing observations, examinations, announcing written evidence, expert examinations and other legal actions shall be solved by the court proceeding from the specific facts of the case and considering propositions of the parties.

Article 441. Oath of witness and warning him on responsibility

Before questioning a witness, the presiding judge shall identify the person and warn on amenability for refusal to testify or knowingly give false statements. Afterwards the presiding judge proposes to a witness to take the following oath publicly: "I swear to the court to recount all known to me on the case. I shall say the truth, all truth and nothing but the truth". The text of the oath along with the signed statement on awareness on his responsibilities and amenability shall be attached to the records of the trial.

A witness below the age of sixteen may also be offered to take the oath, specified in the part one of this article, publicly, however he shall not be warned on responsibility for refusing to testify or committing perjury and shall not submit the signed statement.

Article 442. Procedure of questioning in court

Questioning in a court shall be conducted pursuant to the requirements prescribed in the articles 96-108 of this Code and the rules provided herebelow.

Each witness shall be questioned in the absence of unquestioned witnesses. The questioned witnesses shall remain in the courtroom and may leave after the end of the investigation in court or by authority of the court.

Interrogation of a minor witness when so demand the interests of ascertaining the truth, may be performed in the absence of the person under the trial. Upon returning to the courtroom that person shall be informed on the testimony and may ask questions to the witness.

A witness below the age of sixteen shall be removed from the courtroom after giving testimony, except for the cases where the court considers his presence necessary.

A victim, expert and specialist may remain in the courtroom throughout the whole trial and attend all interrogations.

An interrogation of a person under trial shall begin with an offer of the presiding judge to give testimony on all facts of the case known to him. Afterwards the public procurator, victim, civil plaintiff and representatives thereof, attorney, public defender, civil defendant and the representatives thereof may question the person under trial. The



person under trial may then be asked questions by the other persons under trial and the attorneys thereof.

Questioning of victims, just as witnesses and experts, summoned according to the list attached to the indictment or additionally summoned on a solicitation by the prosecution, shall be performed pursuant to the procedure prescribed in the part six of this article. Where the witnesses and experts are summoned to court on a solicitation of the defense, the person under trial or the attorney thereof, who produced that solicitation, shall start the interrogation, then other persons under trial and the defenders thereof, the public defender, civil defendant and his representative, state procurator, public procurator as well as the victim, civil plaintiff and the representatives thereof.

The presiding judge and assessors may ask questions to any person interrogated at any time of the court investigation.

The persons who have testified at the trial may be asked question with the permission of the court.

Article 443. Examination of written evidence, conclusions of experts and protocols of investigations

On a solicitation of one of the parties or on the initiative of the court, the presiding person, one of the assessors or the clerk of the court shall announce the written evidence attached to the case during preliminary inquiry and inquest, expert conclusions and protocols of investigation that may be related to the case.

The documents submitted to the court on the demand thereof or initiatives of other persons, shall be announced by the court and presented to the parties, who shall announce own opinion on the relevance of those documents to the case. Afterwards, the court shall issue a determination on attaching the documents to the case or returning them to the owners.

Article 444. Examining

A court shall conduct examinations in accordance with the regulations, prescribed by the articles 135-141 of this Code and the rules provided below.

The exhibits, attached to the case during the inquest or preliminary inquiry as well as other items presented directly during the trial by the parties and other persons, shall be examined by the court in the

courtroom in the presence of the parties. Experts, specialists, witnesses may also be involved in the examination.

Examination of a locale, buildings, constructions, premises, vehicles and other objects, that may not be brought to the courtroom, shall be performed by the court at the location of those items in the presence of the persons, specified in the part two of this article.

#### Article 445. Observation

Observation during a trial shall be performed by a court, observing the rules, prescribed in the articles 142-147 of this Code and the rules herebelow.

Observation involving bodily exposure shall be made in a separate premise by a doctor or other specialist in the presence of attesting witnesses of the same sex as the person observed. Upon the completion of the observation, the specified trial participants shall return to the courtroom, where the doctor or other specialist, in the presence of the parties, person observed and attesting witnesses shall inform the court on traces or marks on the body of the observed, if such were detected, and answer questions of the parties and the court. That information just as remarks and explanations of the observed person and the attesting witnesses shall be entered to the court records and certified with the signatures of the doctor, other specialist, person observed and the attesting witnesses.

#### Article 446. Expert examination

An expert examination during a court investigation shall be assigned and conducted according to the rules, prescribed in the articles 172-187 of this Code and the rules herebelow.

The experts who had produced the conclusion at the preliminary inquiry or new experts appointed by the court, or both groups of experts jointly shall perform the expert examination at the trial.

On a solicitation of a party or on its own initiative, a court shall issue and announce a determination on appointing expert examination. The determination shall specify the person or expert institution assigned with the expert examination and the questions to the expert. The court shall explain the rights to the parties to challenge the expert, solicit inclusion of a person proposed by a party to the group of experts, raise additional questions to the expert, produce the examination in the presence of the parties and give explanations during the examination.

The court shall consider solicitations and statements of challenge to an expert pursuant to section 80 of this Code.

An expert may ask questions to persons questioned during the court investigation, read the written evidence, protocols of investigation, conclusions of other experts, participate in examinations, experiments and other judicial actions related to the purport of examination.

During the investigation in court, other questions may also be raised to an expert.

After examining the facts related to the purport of the examination, the court shall provide the expert with the time to prepare an expert conclusion. If for production of that conclusion, the laboratory research is necessary, the court shall transfer the respective items to the expert.

An expert shall announce his conclusion at a session of the court. The conclusion shall be attached to the records of the court.

Upon issuing a conclusion, an expert may be questioned at the trial on the matters related to the conclusion.

Article 447. Presenting for identification, conduct of experiment, sampling for expert examination

Presenting for identification, experimenting, sampling for expert examination shall be performed during the investigation in court pursuant to articles 125-131, 153-156, 188-197 of this Code. The parties may produce solicitations and remarks in respect of the judicial actions specified above.

A court may demand assistance in performing such actions from the chief of the inquiry body or an investigator.

The course and results of presentation for identification, experimenting and sampling as well as the solicitations and remarks produced in relation to those judicial actions shall be entered to the court records.

Article 448. Ending examination in court

After investigating the evidence, the presiding shall ask the parties if they wish to supplement the investigation. Where such solicitations appear, the court shall discuss and resolve them.

Upon completion of supplementary actions to satisfy solicitations, the presiding judge shall announce the court investigation closed.

Chapter 53. Pleadings and final plea of person under trial

Article 449. Content and procedure of pleadings

Article 450. Proposals by parties on matter of charge

Article 451. Final plea of person under trial

Article 452. Resuming investigation in court

Article 453. Proceeding to separate (deliberation) room for issuing verdict

Article 449. Content and procedure of pleadings

Upon completion of investigation, a court shall proceed with listening to the pleadings of the parties. The pleadings shall begin with speeches of the state and public procurators. Afterwards, the victim, civil plaintiff and the their representatives, attorney and public defender, person under trial, civil defendant and his representative shall speak.

The sequence of speeches of the state and public procurators as well as the attorney and public defender shall be established by the court based on proposals of those parties.

The parties may not refer to the evidence that were not considered during the investigation in court. Where it appears necessary to present new evidence to the court for examination, they may solicit for resumption of the investigation in court.

A state procurator, on the grounds of the judicial investigation, shall motivate his conclusion on guiltiness or innocence of the person under trial. If a state procurator concludes on guiltiness, he shall announce his opinion on a type and extent of punishment to be imposed on the person under trial.

After delivering the speeches, the parties may take a floor once again with objections or remarks with respect to the speeches of other parties. The right of final objection shall always belong to the person under trial or his attorney.

A court may not restrict the time of pleadings, but the presiding person may stop the persons pleading who refer to the facts irrelevant to the case.

Article 450. Proposals by parties on matter of charge

Upon the end of pleadings the parties may submit a written formulation of solutions for the matters provided for in the items 1-6 of part one of article 457 of this Code. For a state procurator and defense council submitting such formulation shall be compulsory.

Article 451. Final plea of person under trial

After the pleadings, the presiding judge shall grant the person under trial with the final plea. No questions to the person under trial during the final plea shall be permitted.

A court may not restrict the length of the final plea within a specific timeframe, but the presiding may stop the person standing the trial where that person refers to the facts obviously irrelevant to the case.

Article 452. Resuming investigation in court

Where a pleading party or person under trial at the final plea informs on new facts related to the case or refer to the facts previously unexamined, but related to the case, the court shall issue a determination on resuming the judicial investigation either on the solicitation by the parties or on its own initiative. Upon completion of the resumed judicial investigation, the court shall begin the pleadings again and grant the final plea to the person under trial.

Article 453. Proceeding to separate (deliberation) room for issuing verdict

Having listened to the word of the person under trial, a court shall immediately proceed to a separate (deliberation) room for bringing in a verdict or issuing a determination to be pronounced by the presiding judge to the persons present in the courtroom.

Chapter 54. Verdict

Article 454. Rendering verdicts

Article 455. Lawfulness, validity

Article 456. Secrecy of court deliberation

- Article 457. Matters resolved by court while rendering judgment
- Article 458. Discussing matter of mental disorder and irresponsibility of person standing trial
- Article 459. Discussing matter on supervision over probationer
- Article 460. Procedure for deliberation of court
- Article 461. Resuming investigation in court
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- Article 463. Grounds for rendering sentence
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- Article 465. Drawing verdict
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- Article 470. Resolution part of acquittal
- Article 471. Other matters to be solved in resolution part of verdict
- Article 472. Signing verdict and specific opinion of judge
- Article 473. Announcing verdict
- Article 474. Discharging person under trial
- Article 475. Handing copies of verdict to convicted and acquitted
- Article 476. Other matters resolved by court along with rendering sentence
- Article 477. Providing meetings with convicted

Article 454. Rendering verdicts

A court shall render a verdict in the name of the Republic of Uzbekistan.

Article 455. Lawfulness, validity

A verdict shall be lawful, valid and just.

A verdict is lawful if rendered pursuant to all requirements of the law and on the basis of the law.

A verdict is valid if all factual circumstances of a case have been established with due completeness and in a strict compliance with how they occurred in reality.

A verdict is just if the person found guilty has been imposed a punishment or other measures in accordance with the extent of the public danger of the offence committed by that person and his own personality whereas the person innocent has been acquitted and rehabilitated.

A court shall build a verdict only on the evidence examined in the course of the trial.

All conclusions of a court, specified in a verdict, shall be motivated.

#### Article 456. Secrecy of court deliberation

A judge shall render a verdict in a separate, whereas the court - in a deliberation rooms. Only those judges, who are members of the court on this case, may stay in those rooms. Presence of other persons shall not be permitted.

At nightfall or, as the case may be, during the day, a court may suspend deliberation. The deliberation shall also be suspended for weekends and holidays. Judges may not disclose the judgments brought during the deliberation.

#### Article 457. Matters resolved by court while rendering judgment

When rendering a verdict, a court shall resolve the following matters in a separate (deliberation) room:

- 1) if the act, in committing of which the person under trial is accused, has indeed occurred;
- 2) if that act is an offence and what article of the Criminal code provides for that offence;
- 3) if that act has been committed by the person under trial;
- 4) if the person under trial is guilty of committing offence and, if guilty, the form of his guilt;
- 5) if there exist any circumstances, mitigating or aggravating responsibility of that person;
- 6) if the person under trial is liable to any punishment for the offence committed thereby;
- 7) what punishment shall be imposed to that person and if that punishment shall be served;
- 8) if the person under trial shall be recognized a special dangerous recidivist pursuant to article 34 of the Criminal code;
- 9) in what type of a penal institution shall the convicted person serve the punishment and if a part of the term shall be served in a prison;
- 10) if a civil suit shall be satisfied, in whose favor and in what amount, if the mischief caused by the offence shall be compensated where no civil claim has been instituted, and if the persons under trial shall bear a joint or share responsibility;
- 11) how to deal with the seized property to procure for a civil suit or possible confiscation;

- 12) what to do with exhibits;
- 13) on whom and in what amounts shall the procedure expenses be imposed;
- 14) whether to select, uphold, change or reverse the preventive punishment against the person under trial;
- 15) whether coercive medical treatment or guardianship shall be applied to the person under trial.

Where the person under trial is charged with committing several offences, a court shall resolve the matters provided by items 1-8 of this article individually for each offence.

Where several persons under trial are indicted in committing an offence, a court shall resolve the matters, specified in this article in respect of each of them.

Coercive medical treatment, as provided by the item 15 of this article, may be imposed only on the basis of a respective expert conclusion.

Where in the course of a trial one of the facts, provided in the items 1-4 of section 1 of the article 553 of this Code, have been revealed, a court shall deliberate deferral of serving the sentence in the procedure, prescribed by law.

Article 458. Discussing matter of mental disorder and irresponsibility of person standing trial

In those cases, where the matter of a mental illness and irresponsibility of the person under trial emerged during the inquest, preliminary inquiry or judicial investigation, a court shall deliberate that matter once again during rendering the verdict. If recognized, that the person under the trial was in the state of irresponsibility while committing the offence, or after committing that offence became mentally ill, that deprived him from realizing his own actions or manage them, the court shall issue a determination as prescribed by the article 577 of this Code.

Article 459. Discussing matter on supervision over probationer

Where a suspended sentence is applied, a court shall resolve on who shall be in charge for the probationer.

Where a public association or a collective has solicited for a suspended sentence, a court may assign a duty of supervision over the probationer to that association or collective.



Article 460. Procedure for deliberation of court

Where several judges try a case, a verdict shall be preceded by a deliberation of court under the direction of the presiding judge, who shall raise questions to be resolved by the court in the sequence, provided for in the article 457 of this Code. Each question shall be raised in such manner, so that the court would give either a negative or a positive answer. After giving an answer, a judge may bring the motivation.

No judge may abstain from voting while resolving questions. All questions shall be resolved by a simple majority of votes. The presiding judge shall be the last to vote.

The first vote shall be on the opinion that is the most favorable for the person under trial. If a judge or judges that voted for the acquittal are in minority, whereas other judges have divided in opinion on the qualification of an offence or a punishment, then the vote or the votes given for the acquittal shall be subscribed to the vote given for qualifying in accordance with the article of the Criminal code, that prescribes the sanction with the least severe punishment.

Where a single judge examines a case, that judge shall solve the questions specified in the articles 457-459 of this Code individually.

Article 461. Resuming investigation in court

Where a court, while discussing questions specified in the article 457-459 of this Code in a separate (deliberation) room, recognizes that some additional facts related to the case need to be clarified, that court shall issue a determination on resuming the judicial investigation without rendering a verdict. Upon completion of the investigation, the court shall resume the pleadings and grant a final plea to the person standing the trial.

Article 462. Types of judgments

A verdict of a court shall be either acquitting or accusatorial. A court, selecting a verdict in respect of a person under trial, shall be guided by the principle of presumption of innocence, prescribed by the article 23 of this Code.

Article 463. Grounds for rendering sentence

An accusatorial sentence may not be based on assumptions and shall be rendered only when the guilt of a person under trial was substantiated during the trial. A sentence shall be based on the reliable evidence, obtained after verifying all possible circumstances of committing an offence, meeting all the lacks in the materials of the case, removing all doubts and contradictions.

A court shall render a verdict with release from the punishment in the following cases:

- 1) an act of amnesty has been issued that releases from the punishment, imposed to the person under trial under that verdict;
- 2) the time that a person spent under arrest prior to rendering the sentence, measured on the rules of measurement of the preliminary detention, as prescribed in the article 62 of the Criminal code, is equal to or exceeds the punishment, imposed by the court.

A court shall render a verdict without imposing a punishment if:

- 1) an act of amnesty has been issued that excludes a punishment for the offence, committed by the sentenced;
- 2) the statute of limitation for instituting a charge against the person has expired;
- 3) by the time of rendering the sentence, the action has lost its social danger or the person that committed that action, is no more socially dangerous;
- 4) correction of the sentenced may be achieved by the measures of social influence, applied by social associations and collectives or imposing administrative penalties on the sentenced;
- 5) the person under trial had died before the sentence was rendered.

Article 464. Grounds for rendering acquittal

An acquitting verdict may be rendered if:

- 1) the event (occurrence) of an offence is absent;
- 2) corpus delicti in the act of the person under trial is absent;
- 3) the person under trial is not implicated with the offence;

A court shall acquit the person under trial on the grounds, provided by item 3, part one of this article, where it is ascertained that the offence was committed by a different person or a thorough investigation has produced no sufficient evidence. Where upon rendering of an acquittal on the ground specified, the person that committed the offence remains

uncertain, the court, after validating the verdict, shall transfer the case to the procurator for establishing that person and instituting a charge against that person.

#### Article 465. Drawing verdict

After resolving the questions, provided in the articles 457-459 of this Code, a court shall begin drawing a verdict. The verdict shall be drawn in the language, used during the trial, in clear and comprehensible terms, and contain the introductory, descriptive and resolution parts.

A verdict may be written in hand or applying technical facilities by one of the judges, engaged in rendering thereof, or the judge that produces the verdict individually. All corrections in the verdict shall be specified and certified with a signature of the judge (judges) before pronouncing the verdict.

#### Article 466. Introductory part of verdict

The introductory part of a verdict shall specify:

- 1) the time and venue of rendering the verdict;
- 2) the name of the court, that rendered the verdict, composition of court, clerk of the court, parties and translator;
- 3) the last, first and middle names of the person under trial, the year, month, day and place of birth, place of residence and work, occupation, educational background, marital status and other personal data, related to the case;
- 4) the article of the Criminal code that prescribed the offence, in committing which the person under trial is accused.

#### Article 467. Descriptive part of sentence

The descriptive part of a sentence shall contain a description of the offence admitted by a court as substantiated, specifying the time, place, way of committing that offence, a type of guilt, motives, purposes and sequences of the offence. A sentence shall contain the evidence that gave occasion to the conclusion of a court in respect of each of the persons under trial and motives that entailed rejection of other evidence. Other facts, aggravating and mitigating the amenability shall also be specified, whereas if a part of the charge is recognized groundless or qualification of the offence is established incorrectly, the reasons and motives for changing the charge shall also be indicated.

A court shall also motivate: imposing deprivation of liberty as a punishment, if a sanction in an article of the Criminal code also prescribes other types of penalties; applying specific type of a custody at a settlement or imposing a punishment of detention in a prison; declaring a person under trial as a special dangerous recidivist; applying suspended sentence; imposing a punishment below the lowest limit; commuting the penalty; establishing a type of a penal colony with deviation from common rules; releasing the person under trial from the punishment with or without administering other sanctions.

Where a court resolves, pursuant to law, that coercive medical treatment or guardianship must be applied to the person under trial, that court shall produce motives for such ruling.

Where a social association or collective has solicited on probationary punishment and transferring the person under trial to that organization for trusteeship, a court shall specify the motives for satisfying or rejecting those solicitations in the verdict.

The court shall also present the motives that base a ruling on the instituted civil suit or the ruling on compensation of property damage caused by the offence, made on the initiative of the court.

#### Article 468. Resolution part of sentence

The resolution part of a sentence shall include:

- 1) the last, first and middle names of the person under trial;
- 2) ruling on sentencing the person under trial;
- 3) the article (part, item of the article) of the Criminal code on which the person under trial was convicted and recognizing that person as a special dangerous recidivist, if such ruling is adopted by court;
- 4) the type and extent of punishment, imposed to the person under trial for each offence, in committing of which he was recognized guilty; final punishment to be served on the basis of an article of the Criminal code; a type of colony (settlement) with respective regimen, where the convict shall serve the punishment;
- 5) the period of probation, collective or person that shall have the liability to supervise the sentenced, where a suspended sentence is applied;
- 6) the ruling on reckoning the time of detention or custody at returning a verdict;
- 7) ruling on the preventive punishment in respect of the person under trial, prior to validating the sentence;
- 8) liabilities imposed to the convict;

- 9) ruling on repleiving the offender, where the grounds as provided in the article 533 of this Code established.

Where a person under trial is incriminated with several articles of the Criminal code, the resolution part of a verdict shall specify the articles, on which articles that person is acquitted and on which articles is convicted.

Where a person under trial is released from serving the sentence, such ruling shall be specified in the resolution part of a verdict.

In all cases, a punishment shall be specified in such a manner, so that no doubts emerge while executing the sentence in respect of the type and extent of the punishment.

#### Article 469. Descriptive part of acquittal

The descriptive part of an acquitting verdict shall include: the substance of the charge brought against the person under trial; facts of the case, established by the court; evidence, supporting the conclusion of the court on innocence of the person under trial; the motives that describe why the court deems the evidence, that based the statement on the guilt of that person in committing an offence, unreliable or insufficient, or why the court believes that the event (fact) of the offence is absent or the act committed by that person is not an offence; motives for resolving the civil suit in that particular way.

#### Article 470. Resolution part of acquittal

The resolution part of the acquitting verdict includes:

- 1) last, first and middle names of the person under trial;
- 2) ruling to bring a verdict of not guilty and acquit that person;
- 3) ruling to revoke the preventive punishment; where that punishment involved detention in custody - a ruling to immediately discharge the acquitted in the courtroom;
- 4) ruling on disaffirmation of the measures on securing the civil suit, where the claim was not satisfied;
- 5) ruling on disaffirmation of the measures on securing confiscation of property, where such sanctions were applied;
- 6) recognition of the right of the acquitted for property loss compensation and removal of consequences of moral and other damages in accordance with the procedure prescribed by articles 304-313 of this Code.

Article 471. Other matters to be solved in resolution part of verdict

The resolution part of both accusatory and acquitting verdicts, except for articles 468 and 470 of this Code, shall include:

- 1) a ruling on a civil suit or a ruling on redressing the damage on the initiative of the court adopted in accordance with articles 283-289 of this Code;
- 2) ruling on exhibits and other items and documents attached to the case, adopted in accordance with article 289 of this Code;
- 3) ruling on procedural expenses, adopted in accordance with article 320 of this Code;
- 4) procedure and terms of cassation appeal and appealing against the sentence, as prescribed by articles 499 and 500 of this Code.

Article 472. Signing verdict and specific opinion of judge

Where a single judge renders a verdict, he shall sign that verdict individually, whereas adopted by a court, a verdict shall be signed by all judges. A judge in minority, after signing the verdict, may express a written minority opinion. That opinion shall be written directly in the deliberation room. A special minority opinion shall be attached to the case, but may not be pronounced in the courtroom.

Where a case with a special opinion has not been considered in a cassation order, it shall be transmitted to the chairman of the superior court after validating the sentence, who shall decide after examining the case, if that sentence must be protested in the course of supervision.

Article 473. Announcing verdict

Upon signing a verdict, a court shall return to the courtroom, and the presiding or an assessor shall pronounce the sentence.

All people present in a courtroom, not excepting the court, shall listen to the sentence staying upright.

Where a sentence has been pronounced in a language, that the person under trial does not know or knows insufficiently well, that sentence shall be read aloud immediately after pronouncing by a translator in the mother tongue or other tongue that the person under knows.

The presiding shall explain to the person under trial and other parties the content of the verdict, procedures and terms for appealing. Where a

person under trial has been imposed the capital punishment (death sentenced), he shall be explained on the right to appeal for pardon.

Article 474. Discharging person under trial

If a person under trial is acquitted, or been returned a sentence without imposing of or with releasing from a punishment, or with suspended punishment, or imposed a punishment without deprivation from liberty, convicted for a term, not exceeding the factual term of detention to custody before trial, the person under arrest shall be immediately discharged directly in the courtroom.

Article 475. Handing copies of verdict to convicted and acquitted

A copy of the verdict shall be handed to a convicted and acquitted within three days after pronouncing thereof, or where the volume of a verdict is significant - not later than ten days. Other parties may request a copy of or an extract from the verdict to be received within the same terms.

Article 476 was amended according to Law of RUz of 30.08.97

Article 476. Other matters resolved by court along with rendering sentence

If a person convicted has minor children, old parents, and other dependants that remain without care and aid, a court, together with rendering a verdict, shall issue a determination on assigning them to guardianship or surveillance to relatives or other persons and institutions, and where a convict has property or dwelling house remaining without care - a respective determination on adopting measures to protect them.

Where a defense council in the case was an attorney, assigned according to the article 50 of this Code, a court, solicited by a head of a lawyer bureau, collegiums or company, shall issue a determination to charge the convict with the fee to pay to that lawyer bureau, collegiums or company and the amount of that fee. (Law edition # 485-I of 30.08.97)

A court, together with rendering a verdict and in presence of grounds, provided in articles 298 and 300 of this Code, or as the case may be, a court shall draw attention of respective officials to shortcomings admitted during the inquest and preliminary inquiry and issue a respective private determination.

All procedural rulings, specified in this article, shall be announced in the courtroom after pronouncing a verdict.

Article 477. Providing meetings with convicted

Upon pronouncing a verdict, the presiding or the chairman of a court, at the instance of close relatives of a convict, or his attorney, shall provide them with a meeting with the convict.

## **Section eleven**

### **Examining the lawfulness, reasonableness and fairness of judgements, rulings and resolutions**

Chapter 55. General conditions for examination of the lawfulness, reasonableness and fairness of judgements, rulings and resolutions

Article 478. Ways of examination of the lawfulness, reasonableness and fairness of judgements, rulings and resolutions

Article 479. The right and provision of the right to appeal and protest against court's rulings

Article 480. Participation of the procurator in consideration of the criminal case by the higher court

Article 481. Production of additional materials

Article 482. Time-frame for consideration of the criminal case by the higher court

Article 483. Time for consideration of the criminal case by the higher court

Article 484. Grounds for repeal or changing the judgement

Article 485. Incompleteness and one-sided investigation

Article 486. Inconsistence of the conclusions of the court outlined in its judgement, to the factual circumstances of the criminal case

Article 487. Substantial violation of the norms of the criminal Procedural Law

Article 488. Incorrect application of the norms of the Criminal Code

Article 489. Unfairness of punishment

Article 490. Competencies of the court that considers the criminal case under appellate, cassation or review procedure

Article 491. Changing the judgment

Article 492. Repeal of the judgement or the ruling (the resolution) followed by transfer of the criminal case for additional investigation or re-consideration at court

Article 493. Repeal of accusatory judgement followed by the termination of the criminal case

Article 494. Inadmissibility of toughening the punishment or of application of a law envisaging a more grave crime



Article 495. Binding Force of the instructions of the higher court  
 Article 496. Content of the ruling (the resolution) of the higher court  
 Article 497. Reference of the ruling (the resolution) for execution

Article 478. Ways of examination of the lawfulness, reasonableness and fairness of judgements, rulings and resolutions

The lawfulness, reasonableness and fairness of judgements, rulings, resolutions court can be examined under the appellate, cassation and review procedure.

The higher court shall consider the case:

- 1) Under the appellate procedure - upon the complaints and protests of persons specified in article 497-2 of the present Code;
- 2) under the cassation procedure - upon the complaints and protests of persons specified in article 498 of the present Code;
- 3) under the review procedure - upon protest of the chairman of the court, of the procurator or their deputies granted by the law the right to bring protest; and in the event that new circumstances are revealed, a protest shall be brought by the procurator or his deputies granted by the law the right to bring protest.

Article 479. The right and provision of the right to appeal and protest against court rulings

The participants of the legal proceedings envisaged in articles 497-2, 498 and 5 of the present Code, shall be entitled to appeal or protest, in a prescribed manner against the judgement and the ruling of the court of the first instance in the appellate or cassation procedure, and shall also be entitled to petition for reconsideration of the court rulings as a matter of the review procedure. In this they may produce additional materials in justification of their claims.

A court shall notify the participants of the proceedings of receiving an appeal, cassation complaint, an appeal, cassation or review protest, where the complaint the protest relate to the interests of such participants, and shall simultaneously send the copies of these documents to the convicted, victim or the acquitted person. The persons specified above shall have the right to familiarize themselves with case file, including additionally produced materials, and to notify the court of objections.

The court shall notify a person who has lodged an appeal or cassation complaint, also participants of proceedings, where the complaint or the protest relates to interests, of the time and place of consideration of the case.

The convicted, acquitted person, their defense councils and their lawful representatives, the victim, civil plaintiff, civil defendant and their representatives shall have the right to participate in consideration of the case

matter of appeal procedure. These persons, except the convicted person who serve punishment at the correctional institution, shall be have the right to participate consideration of the case as a matter of cassation and review procedure. Ruling the necessity of participation of the convicted who serves his punishment at the correctional institution, his bringing to the session of the cassation and review courts, shall be taken by the court.

If the specified persons fail to appear at the court session without any justify reasons, where such persons have been timely notified of the time and place of considering the case, shall not impede the consideration of the case. The court, however, may summon the convicted, acquitted person as well as the victim, civil plaintiff, civil defendant and their representatives to give explanations.

Article 480. Participation of the procurator in consideration of the criminal by the higher court

The procurator shall attend in consideration of the criminal case under the appeal cassation or review procedure.

The Participation in consideration of the case shall be as follows:

- 1) The consideration of the case at the panels on criminal cases of the Supreme Court of the Republic of Uzbekistan, of the Supreme Court of the Republic of Karakalpakstan, or at the panels on criminal cases of the regional courts and the Tashkent city court, or at the Military Court of the Republic of Uzbekistan, shall be attended by the procurator, who is duly authorised by the General Procurator of the Republic of Uzbekistan, by the Procurator of the Republic of Karakalpakstan, or by the Procurators of the regions, the Tashkent city, by the Military Procurator of the Republic of Uzbekistan -
- 2) The consideration of the case at the presidiums on criminal cases of the Supreme Court of the Republic of Uzbekistan, of the Supreme Court of the Republic of Karakalpakstan, at the presidiums on criminal cases of the regional and the Tashkent city courts, or at the Military Court of the Republic of Uzbekistan, shall be attended by, respectively, the General Procurator of the Republic of Uzbekistan or his deputy, by the Procurator of the Republic of Karakalpakstan, by the procurators of the regions, of the Tashkent city, and by the Military procurator of the Republic of Uzbekistan
- 3) The consideration of the case at the Plenum of the Supreme Court of the Republic of Uzbekistan shall be attended by the General Procurator of the Republic of Uzbekistan.

Article 481. Submission of Additional Materials

At the appellate, cassation and review instances the participants of the legal proceedings shall have the right to produce any documents, experts' opinions, an

other additional materials they deem substantial for the case. Such materials can be requested by the court in accordance with a procedure of preparation of the case for hearing.

Additional materials may also be obtained by ordering the investigator to perform investigative actions envisaged in articles 149, 170, 290 and 398 of the present Code.

Article 482. Time-frame for consideration of the criminal case by the higher court

By considering the criminal case under the appellate, cassation or review procedure the court shall examine the lawfulness, reasonableness and the fairness of the judgement, ruling or the resolution based on the documents available in the case and those additionally produced by participants of the legal proceedings, or those demanded by the court; and in the event that the case is reinitiated in view of newly revealed circumstances, the court shall examine the lawfulness, reasonableness and fairness of the judgement, ruling or the resolution based on the materials of investigation of those circumstances.

The court shall examine the case in full, without being limited solely to the arguments contained in the complaint or protest, in respect of all convicted persons including those who have not lodged complaints or against whom no complaints or protests have been brought.

Article 483. Terms of consideration of the criminal case by the higher court

The court of appellate, cassation or review instances must commence the consideration of a criminal case within fifteen days, and the Supreme Court of the Republic of Uzbekistan shall commence the consideration of a criminal case within one month, following the date on which the case file with a complaint or a protest has been received.

In the event of special complicity of the case or other outstanding circumstances, chairman of the relevant court may extend this period of up to fifteen days, and the Chairman of the Supreme Court of the Republic of Uzbekistan or his/her deputies may extend such a period for up to one month.

The interested participants shall be notified of the extension of the period of the case consideration.

Article 484. Grounds for Repeal or changing the judgement

The following shall be the grounds for repeal or changing the judgement by the appellate, cassation or review court:

1) incompleteness or one-sidedness of judicial investigation;

- 2) inconsistency of the court conclusions outlined in its judgement, to factual circumstances of the case;
- 3) substantial violations of the norms of the present Code;
- 4) incorrect application of the norms of the Criminal Code;
- 5) unfairness of punishment.

If, during consideration of the case as a matter of appeal, cassation or review, appears impossible to eliminate the defects of the preliminary or judicial investigation, the judgement shall be subject to repeal.

Article 485. Incompleteness and one-sidedness of the investigation

Preliminary or judicial investigation shall be deemed incomplete or prejudiced when:

- 1) circumstances, stipulated in articles 82-84 of the present Code, are not fully identified;
- 2) persons, whose testimonies could effect the outcome of the case, have not been interrogated; the required expertise has not been executed; no documents or material evidences have been requested or investigative actions have been performed, which results could be substantial for the case.
- 3) circumstances specified in the ruling or the resolution of the court, which has sent the case for additional investigation or re-consideration, have not been studied.

Article 486. Inconsistency of the court conclusions outlined in its judgement, the factual circumstances of the Criminal Case

The judgement shall be deemed inconsistent to the factual circumstances of the criminal case, if:

- 1) conclusions of the court are not been confirmed by the evidences considered at the court session;
- 2) the court has not taken into account circumstances, which could effect its conclusions;
- 3) there are contradictory evidences concerning the circumstances substantial for the case, while the judgement does not clarify the reasons for which the court has found some evidences as relevant and the others have been rejected.
- 4) conclusions of the court outlined in its judgement, contain substantial contradictions, which have affected or could have affected the ruling

as to whether or not the accused person is guilty, could have affected the proper application of the Criminal Code norms or the determination of type of punishment, while the higher court has no possibility to eliminate these contradictions.

Article 487. Substantial violation of the norms of the Criminal Procedural Law

The violation of the norms of the present Code shall be considered substantial when it results in deprivation of or constraint the legislatively established rights of the participants of legal proceedings, or has otherwise prevented the court from a full consideration of the case, and has affected or could have affected the passing of lawful, reasonable and fair judgement.

The judgement shall be repealed, if:

- 1) it has been passed by unlawful composition of the court;
- 2) the procedure for passing the judgement by an individual judge has been violated, or the confidentiality of the consultation of judges, while considering possible judgement, has been violated;
- 3) the case has been considered in absence of the accused, except cases provided in Part III of Article 410 of this Code;
- 4) the accused has not familiarized himself with all the materials of the case upon the completion of preliminary investigation and the court, which passed the judgement, has not eliminated this violation;
- 5) the accused, who does not have defense council, has not been given the floor for speech for in his defence;
- 6) the accused has not been given the floor for final plea;
- 7) the right of the accused to speak his/her native language and use the services of translator has been violated;
- 8) the case has been investigated or considered without participation of the defense council, when his participation is mandatory in accordance with the law;
- 9) the preliminary investigation and court proceedings have been conducted, notwithstanding the circumstances that excludes any proceedings on the case;
- 10) the case file does not contain the protocol of the court session or such protocol has not been duly signed.

Article 488. Incorrect application of the norms of the Criminal Code

The following shall be considered as incorrect application of the norms of the Criminal Code:

- 1) the violation of the requirements of the articles set out in the General Section of the Criminal Code;
- 2) qualification of the offence under the article (or paragraph, or clause of the article) of the Criminal Code, that is not the one, which shall have been applied.
- 3) imposition of the punishment for the convicted, where the type and size of such punishment are not contemplated by the relevant article of the Criminal Code.

#### Article 489. Unfairness of Punishment

The punishment shall be deemed irrelevant to the gravity of the offence or personal characteristics of the convicted when such punishment, although is within the limits established by the relevant article of the Criminal Code, is manifestly unfair by its type and size.

#### Article 490. Competencies of the court in considering the criminal case under appellate, cassation or review procedure

Having considered the criminal case under the appellate, cassation or review procedure, the court shall pass one of the following rulings:

- 1) to leave the judgement or the ruling (the resolution) of the court unchanged;
- 2) to change the judgement or the ruling (the resolution);
- 3) to repeal the judgement or the ruling (the resolution) and refer the case to additional investigation or re-consideration at the court, or to terminate the case.

Having considered the criminal case under the review procedure, the court of rev instance shall repeal the appellate or cassation ruling and also subsequent cour ruling and resolutions, if any, and shall submit the case for re-consideration u the appellate or cassation procedure.

The court of appellate instance may conduct judicial investigation in full or in and, where it is possible to fill the gaps and to eliminate procedural violation by the fist instance court, to introduce changes to the judgement.

The court of the cassation or review instance may conduct judicial investigation part and, where it is possible to fill the gaps and to eliminate procedural viol made by the fist instance court, to introduce changes to the judgement.

The court of he higher instance may, if there are grounds for doing so, find the convicted as a very dangerous recidivist and to impose a more

severe type of correctional colony or the judgement serving colony, to increase the amount of compensation for harm caused by offence.

The court of the higher instance may repeal or change the judgement against certain convicted persons in respect of the brought charges or in the respect of the civil suit.

Article 491. Changing the judgement

If the court, by considering the case under the appellate, cassation or review procedure, finds out that the first instance court has incorrectly applied the Criminal Code or has imposed the punishment incompatible with the gravity of offence and the personal characteristics of the convicted, it shall be entitled to introduce relevant changes to the judges in accordance with the requirements of article 494 of the present Code, without referring the case for re-consideration.

Article 492. Repeal of the judgement or the ruling (the resolution) followed by transfer of the criminal case for additional investigation or re-consideration by the court

In the event that the judgement or the ruling (the resolution) is repealed, the court shall transfer the criminal case for additional investigation, or to the court which has passed the judgement or the ruling (the resolution), for its re-consideration by another judge or by another composition of judges, or to another court.

Article 493. Repeal of accusatory judgement and termination of a criminal case

The court, having considered the criminal case under the appellate, cassation or review procedure, shall repeal the accusatory judgement and terminate the criminal case, if there are grounds for doing so, in accordance with article 83 and by Paragraphs II and IV of article 84 of this Code, and also in the event that the evidences, which have been considered by the court of the first instance, are insufficient for finding the accused person guilty, while the sources of collecting any additional evidences have been exhausted.

Article 494. Inadmissibility of toughening the punishment or of application of a law envisaging a more grave crime

The court, by considering the criminal case either under the appellate, cassation or review procedure, shall not toughen the punishment or apply the law envisaging a more grave crime.

Under the appellate or the cassation procedure, the judgement can be repealed and the case transferred for re-consideration to the court due to the need to apply the

envisaging a more grave crime or due to the lightness of the punishment, only upon procurator's protest or the victim's complaint on these grounds.

The ruling to acquit the convicted may be repealed by the higher court only upon appellate or cassation protest of the procurator, complaint of the victim or his representative, or upon the appellate or cassation complaint of the acquitted person or his/her defense council or lawful representative, and also in upon the protest laid under the review procedure.

#### Article 495. Binding force of the instructions of the higher court

The instructions of the court that has considered the criminal case under the appellate, cassation or review procedure, which are aimed at providing of the review completeness and comprehensiveness of studying the case merits, as well as at eliminating the violations of the norms of the Criminal and the present Codes, shall be binding when re-considering the case by the court.

When transferring the case for additional investigation, the court of appellate, cassation or review instance shall not predetermine the conclusions as to the value of accusation, authenticity or inaccuracy of specific evidences, privilege of some evidences over the others, qualification of the offence and the measure of punishment.

#### Article 496. Content of the ruling (the resolution) of the higher court

The following items must be specified in the ruling (the resolution) of the court considering the case under the appellate, cassation or review procedure:

- 1) time and place of the passed ruling (the resolution);
- 2) name and composition of the court, which has passed the ruling (the resolution), and the names of the procurator and other persons, who participated in consideration of the case;
- 3) person who has lodged the appellate, cassation complaint, or the appellate, cassation or review protest;
- 4) content of the resolitional part of judgement or ruling (the resolution) against which the complaint or protest has been brought;
- 5) substance of the complaint, protest, or objections against them, the summary of the explanations given by the persons participating in the case and the procurator's opinion;
- 6) ruling taken by the court in respect of the complaint or protest.

If the complaint or the protest has been kept unsatisfied, the ruling (the resolution) shall specify the grounds for which the arguments contained in the complaint or protest were deemed groundless or insubstantial.



In the event that the judgement, ruling (the resolution) is repealed or changed, court of appellate, cassation or review instance shall specify articles of the law violated, and shall give the arguments substantiating the groundlessness of the ruling, which is being repealed or changed.

When the court of appeal, cassation or review instance transfers the case for additional investigation or re-consideration by the court, the circumstances, which are subject to clarification, shall be specified.

The court of appellate, cassation or review instance shall pass a private ruling if there are grounds for doing in accordance with articles 298 and 300 of the present Code, and also if there is a need to draw attention of the relevant officials to defects committed in course of inquiry, preliminary investigation, or court proceedings.

The ruling shall be signed by all members of the court; the resolution of the president of the court shall be signed by its chairman; the resolution of the Plenum shall be signed by the Chairman of the Supreme Court of the Republic of Uzbekistan and by the secretary of the Plenum. The passed ruling (the resolution) shall be announced immediately in the court-room by the chairman or by one of the member judges.

Article 497. Submission of the ruling (the resolution) for Execution

The passed ruling (the resolution) shall be within five days submitted, together with the criminal case, for its execution to the court, which has passed the judgement or the appellate or cassation ruling, or to another court; in the event that the case is to be transferred for additional investigation, it shall be submitted to the procurator who has approved an accusatory conclusion.

The ruling (the resolution), which prescribes that a convicted be acquitted, shall be executed at the court-room if the convicted participates the court session. In other cases, the court shall transfer the copy of the ruling (the resolution) to the administration of the judgement service institution, within twenty-four hours following its issuance.

### **Chapter 55-1. Appeal proceedings**

Article 497-1. Rulings subject to appeal and protest under the appellate procedure

Article 497-2. Persons entitled to appeal and protest against the judgement under the appellate procedure

Article 497-3. Procedure of the appellate claiming and protesting against the judgements

Article 497-4. Time-frame for submission of the appellate claims and protests against the judgements

Article 497-5. Procedure of renewal of the time-frame for the submission of the appellate claims and protests

Article 497-6. Consequences of submission of the appellate claim or protest against the judgement

Article 497-7. Content of the appellate claim and protest

Article 497-8. Revocation of the appellate claim or protest

Article 497-9. Appeal and protest against the ruling of the first instance court

Article 497-10. Appointment of the appellate court session

Article 497-11. Legal proceedings at the appellate instance

Article 497-12. Court debates. Final plea for the convicted

Article 497-13. The competencies of the court of the appellate instance

Article 497-14. The protocol of the appellate court session

Article 497-15. Procedure for reconciliation of private claims and protests

Article 497-16. Enforcement of the rulings of the appellate instance

Article 497-17. Additional consideration of the case at the appellate instance

Article 497-18. The ruling of the appellate court

Article 497-1. Rulings subject to appeal and protest under the appellate procedure

The judgements of the court, which did not come into force, can be appealed or protested under the appellate procedure.

The rulings of the first instance court passed in course of court consideration appealed or protested under the appellate procedure together with the appeal or protest against the judgement.

Article 497-2. Persons entitled to appeal and protest against the judgement under the appellate procedure

The convicted, his defense council, lawful representative, as well as the victim or his representative, have a right to appeal, while the procurator has the right to protest, against the judgement of the court, which has not come into force.

The civil plaintiff, civil defendant and their representatives have a right to appeal against the civil suit related part of judgement.

An acquitted person, his defense council or the lawful representative have a right to appeal against the judgement in part related to the motives and grounds of the acquittal.

The persons specified in paragraph one, two and three of this article may appeal or protest against the ruling of the appellate instance court under the review procedure.

Article 497-3. Procedure of the appellate claiming and protesting against the judgements

The judgements of the courts, which have not come into force, can be appealed and protested under the appellate procedure as follows:

- 1) judgements of district (city) courts on criminal cases - to the Supreme Court on criminal cases of the Republic of Karakalpakstan, regional and Tashkent city courts on criminal cases;
- 2) of the district and territorial military courts - to the Military Court of the Republic of Uzbekistan.

The appellate claims and protests against the judgements of the Supreme Court of Republic of Uzbekistan, of the Supreme Court on criminal cases of the Republic of Karakalpakstan, of the regional and the Tashkent city courts on criminal cases, Military Court of the Republic of Uzbekistan, shall be considered by the same court.

The appellate claims and protests shall be brought through the court, which has the judgement. If the appellate complaint or protest has been directly brought to appellate court, the appellate court shall send them back to the court, which passed the judgement in order to meet the requirements set out in paragraph two, three four of article 479 of the present Code.

Article 497-4. Time-frame for submission of the appellate claims and protests against the judgements

The appellate claims and protests against the judgement of the first instance court may be lodged within 10 days from the day of the judgement announcement, whereas the convicted, acquitted, victim may lodge their appellate claim or protest within the same time from the day of delivery of copy of the judgement.

The case can not be requested from the court during the period established for appeal against the judgement. During this time the parties have a right to familiarize themselves with the case in the court building.

The claim or protest, lodged after expiry of the established time-frame, shall be left without consideration, and the persons lodged the claim or protest shall be accordingly notified.

Article 497-5. Procedure of renewal of the time-frame for the submission of the appellate claims and protests

If the time-frame for appeal or protest against the judgement has been missed as a result of respectable reasons, the persons, who are entitled to submit appellate claim or protest, may petition before the court, who has passed the judgement, to renew the time-frame. Where it is necessary, the ruling on the issue shall be taken with the participation of the person who has initiated the petition.

Objection to renew the expired time-frame can be appealed or protested against at the higher court., which can renew the time-frame and consider the case upon the private claim or protes. In this event, the requirements set in paragraph two, three and four of article 479 of the present Code shall be meet.

Article 497-6. Consequences of submission of the appellate claim or protest against the judgement

Submission of the appellate claim or the appellate protest stops the process of enforcement of te judgement.

After the expiry of the time-frame established for appeal and protest against the judgement, the court the passed the judgement shall send the case together with the claims, protests, counterclaims and additionally produced documents to the court of the appeal instance within the period of up to 10 days after performance of requirements set in paragraph two, three and four of article 479 of the present Code.

In extraordinary circumstances, the above period can be extended to 20 days by the chairman of the higher court or by its deputy.

Article 497-7. Content of the appellate claim and protest

The appellate claim and protest shall contain the following information:

- 1) name of the court to which the claim or protest is addressed;

- 2) information about the person, who lodged the claim, his procedural status, home address or place of residence;
- 3) the name of the court, which has passed the judgement, the date of passing the judgement, information about the person, which is the subject of judgement being appealed or protested;
- 4) the arguments of the person who has lodged the claim or protest, describing what he/she thinks is incorrect in the judgement or other ruling of the court, and the substance of his claim;
- 5) evidences which the appellant uses to justify his claims and which must be studied by the court of the appellate instance, including those that were not studied by the first instance court;
- 6) the list of materials annexed to the claim or protest;
- 7) the date of submission of the claim or protest, and the signature of person submitting the claim or protest.

#### Article 497-8. Revocation of the appellate claim or protest

The person, who has appealed or protested against the judgement, may revoke his claim or protest. The higher procurator may also revoke the protest. The convicted may revoke the claim of his defense council.

#### Article 497-9. Appeal and protest against the ruling of the first instance court

The ruling passed by the first instance court on the case can be subject to private claim or private protest within 10 days after their passing by the persons provided in article 497-2 of the present Code.

In case of appeal or protest against the ruling passed in course of court consideration resulted in the passing of the judgement, the case shall be sent to the court of the appellate instance only upon the expiry of the time-frame established for appeal and protest against the judgement.

The court ruling can also be appealed by the persons who are not parties of the given case, if the ruling concerns their interests.

#### Article 497-10. Appointment of the appellate court session

The chairman of the first instance court shall determine the day, place of consideration in the higher court of the case, on the which the appellate claim or protest has been received. The persons specified in article 497-2 of the present Code shall be notified thereof.

The witnesses, experts and specialists shall be invited to the court session upon the discretion of the court.

#### Article 497-11. Legal proceedings at the appellate instance

The legal proceedings at the court of the appellate instance shall be conducted under the same rules established for the legal proceedings at the first instance court.

If persons fail to appear, when they were timely notified of the place and date of consideration of the case, shall not impede the case consideration and ruling making.

The chairman shall announce which case is to be considered and checks the appearance of the parties, and then reads the names of the court members, of the procurator, secretary, translator, if any, and of the defense council; checks whether claims of challenge has been brought by any participant. The chairman explains to the present participants of the proceedings their rights at the stage of appellate consideration of the case. After this, the chairman shall ask the present parties whether they have petitions and the appellate instance shall pass rulings on them.

The consideration of the case shall be started by the report of one of the judges, who shall tell the substance of the case, the arguments of the claim or the protest and also the substance of the counterclaims. In the event of production or request by the court of additional materials, the chairman or the judge shall voice them and refers them to the participating persons for familiarization.

The chairman shall let the floor to the appellant, person against whom the appellate claim and protest has been brought, to their defense councils and representatives, and then to the procurator. If, together with the appellate claims, there is also an appellate protest of the procurator, he shall be given the floor the first.

Having heard the speeches of the parties, the court shall decide on the determination of the scope of evidences subject to direct study at court session, bearing the need to ensure proper examination of the lawfulness, reasonableness and the fairness of the judgement; on summon to the court session of the convicted, victims, witnesses, experts and other persons, if needed; on retention, choosing, repeal or changing the measure of suppression against the convicted.

Then the court starts the examination of evidences by means of interrogation of the summoned convicted, witnesses, victims, and starts the announcement of the documents, protocols and other case materials either upon the petition of the parties or by its own initiative. The procedure of evidence examination shall be established by the court taking into account the opinions of the parties.

Witnesses interrogated at the first instance court shall be interrogated at the court of the appellate instance if the their summoning has been found necessary under the petition of the parties or the under the court's own initiative. The parties may petition to summon new witnesses, to make expertise, to order the release of material evidences and the documents which examination has been rejected by the first instance court. The settlement of the made petitions shall be executed in accordance with the rules provided in article 438of the present Code, in which case the appellate instance court can not reject the satisfaction of the petition on the ground that they were not satisfied by the first instance court.

Upon the completion of the evidence examination the judge shall ask the parties whether they have petitions on complementation of the judicial investigation. The court shall resolve these petitions and go to the court debates.

Article 497-12. Court debates. Final plea for the convicted

The court debates shall be conducted in accordance with the rules provided in article 449 of the present Code, in which case, the person who has lodged the claim, protest shall be given the floor the first.

Upon the completion of the judicial debates, the chairman gives the convicted, if he is present, the final plea, after which the court shall go to the consultative room to pass ruling.

Article 497-13. The competencies of the court of the appellate instance

Having considered the case under the appellate procedure, the court may rule out:

- 1) to leave the judgement of the first instance court unchanged, and the claim or protest - unsatisfied;
- 2) to repeal the accusatory judgement of the first instance court and pass the judgement to acquit person;
- 3) to repeal the accusatory judgement of the first instance court and stop the case proceedings;
- 4) to change the judgement of the first instance court;
- 5) to repeal the judgement of the first instance court and transfer the case for additional investigation on the grounds specified in paragraph one of article 419 of the present Code;
- 6) to repeal the judgement or ruling of the first instance court and transfer the case for reconsideration.

If the incompleteness and one-sidedness of the judicial investigation or unsubstantial procedural violations are present, the appellate instance shall not transfer the case to reconsideration by the first instance court, but take measures to fill the gaps and eliminate the violations, and taking into account the results of consideration make changes to the judgement.

The ruling of the appellate instance court shall contain the grounds under which the judgement of the first instance court is considered as correct and the arguments of the claim or protest - as unjustified; it shall indicate what was the ground for repeal or changing of the judgement of the first instance court.

While taking ruling the appellate instance has a right to cite the evidences examined by the first instance court and found as reliable, in conjunction of the new evidences examined during consideration of the appellate claims or protests.

The announcement of the ruling shall be performed in accordance with the rules provided in article 473 of the present Code.

Article 497-14. The protocol of the appellate court session

At court of the appellate instance the secretary of the court session shall keep the protocol in accordance with the rules provided in article 426 of the present Code. The notes may be brought with regard to the protocol which shall be considered in accordance with procedure envisaged by article 427 of the present Code.

Article 497-15. Procedure for reconciliation of private claims and protests

The private claim or protest shall be considered at the time when the appellate claim or protests are considered.

In settling the private claim or protest the chairman shall ask the opinion of all the participants of the court proceedings, where necessary announce the materials of the case related to submitted claim or protest. On each private claim or protest the court shall pass the ruling immediately or in the consultative room.

In the event that only private claim or protest has been brought on the case, the court, which has passed the judgement, shall, upon the expiry of the time-frame established for appellate appeal or protest, forward the case to the higher court.



The settlement of the private claim or protest shall be done by the court by summoning the person, who lodged the claim or protest, and the persons, whom it claims to be summoned or whom the court finds necessary to be summoned.

The ruling of the court passed about the private claim or protest shall be considered as final.

Article 497-16. Enforcement of the rulings of the appellate instance

The rulings of the appellate instance shall come into force immediately upon announcement.

Article 497-17. Additional consideration of the case at the appellate instance

The court of the appellate instance must consider the claim or protest and pass its ruling if, on any reasons, the appellate claim or protest against several convicted, which were lodged in time, will be received by the appellate court after the consideration of the criminal case against other convicted; or if the expired time-frame is to be renewed in accordance with article 497 of the present Code; and if the appellate claim of the convicted, his defense council or the lawful representative will be received when the case against this convicted has already been under the appellate claim or protest of other participant of the proceeding.

In the event that this ruling goes counter to the that passed earlier, the case shall be transferred to the chairman, who has the right to bring protest under review procedure in order to resolve the issue of protest of one of both rulings.

The procedure of additional consideration of the case shall be applied in respect of the settlement of the private claim and private protest, which have been submitted late.

Article 497-18. The ruling of the appellate court

Upon the results of the consideration of the case the court of appellate instance shall pass the ruling.

The ruling shall be passed by the majority of voice of judges. The ruling shall signed by all judges. The judge, who in the election has been left with the minor has a right to sign the ruling attached with his special opinion.

The ruling of the court of appellate instance can be appealed and protested under review procedure.

## Chapter 56. Cassation Proceedings

- Article 498. Persons entitled to appeal and protest against the judgement and ruling under a cassation procedure
- Article 499. Procedure for Appealing and Protesting against Judgements
- Article 500. A Period for Submitting a Complaint or a Protest against a Judgement
- Article 501. Procedure for Renewing a Period for Submitting a Complaint or a Protest
- Article 502. Consequences of Submitting a Complaint or a Protest against a Judgement
- Article 503. Revocation of a Complaint or a Protest
- Article 504. Appealing and Protesting against a Ruling of a Court of the First Instance
- Article 505. Appointing Hearing of a Case and Summons for a Court Hearing
- Article 506. Procedure for Considering a Criminal Case at a Court of Cassation Instance
- Article 507. Procedure for Settlement of Private Claims and Protests
- Article 508. Additional Consideration of a Criminal Case at a Cassation Instance
- Article 509. Ruling of a Court of the Cassation Instance

Article 498 Persons Who are Entitled to Appeal and Protest against a Judgement under a Cassation Procedure

A convict, or his/her defence attorney, or his/her lawful representative, or a victim, or his/her representative shall be entitled to appeal a court judgement, which has not come into legal force, and a procurator or his/her deputy shall be entitled to lodge a protest.

A civil plaintiff, a civil respondent and their representatives shall be entitled to appeal a judgement in the part, which relate to a civil claim.

A person who was acquitted by a court, his/her defence attorney and his/her lawful representative shall be entitled to appeal a judgement in the part, which relate to the motives and grounds for acquittal.

Article 499 Procedure for Appealing and Protesting against Judgements

The following judgements, which have not come into legal force, may be appealed and protested under a cassation procedure:

- 1) judgements issued by district (city) courts may be appealed and protested to the Supreme Court of the Republic of Karakalpakstan, the regional courts and the Tashkent City Court;
- 2) judgements issued by the Supreme Court of the Republic of Karakalpakstan, the regional courts and the Tashkent City Court may be appealed and protested to the Supreme Court of the Republic of Uzbekistan;
- 3) judgements issued by the Supreme Court of the Republic of Uzbekistan may be appealed and protested to the Presidium of the same court;
- 4) judgements issued by military courts of garrisons may be appealed and protested to the Military Court of the Armed Forces; and a judgement issued by the Military Court of the Armed Forces may be appealed and protested to the Military Bar of the Supreme Court of the Republic of Uzbekistan.

The cassation complaints and protests shall be lodged through the court that has issued a judgement. In the event that a complaint or protest is lodged directly to a court of cassation instance, it shall re-direct it to the court that has issued the judgement in order to fulfil the requirements set out in Parts II, III and IV of Article 479 of this Code.

Article 500      A Period for Submitting a Complaint or a Protest against a Judgement

Complaints and protests against a judgement of a court of the first instance may be lodged within ten days following the announcement of the judgement. A convict, an acquitted person or a victim may appeal or protest the judgement within the same period following the date on which a copy of the judgement was served to him/her.

A case file may not be demanded from the court within the period established for appellation of a judgement. The parties shall be entitled to look through the case file in the court building during that period.

A complaint or a protest, that was lodged after the established period has expired, shall be left without consideration, and the persons who have lodged them shall be informed accordingly.

Article 501      Procedure for Renewing a Period for Submitting a Complaint or a Protest

In the event that a deadline for appealing or protesting against a judgement has been missed for good reasons, the persons who have the right to lodge a cassation complaint or protest may lodge a petition to

the court, which had issued the judgement, to renew the period. If necessary, this matter shall be settled with participation of a person who has initiated the petition.

A rejection to renew the missed deadline may be appealed or protested to a superior court, which shall be entitled to renew the period and to consider a case on the basis of a private claim or a protest. In this case, the requirements contemplated by Parts II, III and IV of Article 479 of this Code shall be observed.

#### Article 502 Consequences of Submitting a Complaint or a Protest against a Judgement

A lodging of a cassation complaint or a cassation protest shall suspend the execution of a judgement.

Upon the expiry of the period prescribed for appealing and protesting against a judgement, the court that has issued the judgement shall forward a case, together with the complaints, protests and objections thereon and also any additional materials presented, to the court of cassation instance. The above procedure shall be performed within ten days, and after all the requirements contemplated by Parts II, III and IV of Article 479 of this Code have been fulfilled. (As worded in Law No.357-I of the Republic of Uzbekistan, dated 27 December 1996)

In exclusive cases, the specified period may be extended by a chairman or a deputy chairman of a superior court, however, it may not be extended for more than twenty days. (As worded in Law No. 357-I of the Republic of Uzbekistan, dated 27 December 1996)

#### Article 503 Revocation of a Complaint or a Protest

A person, who has appealed or protested against a judgement, shall be entitled to revoke his/her complaint or protest. The right to revoke the protest also belongs to a superior procurator. A convict shall be entitled to revoke a complaint of his/her defence attorney.

#### Article 504 Appealing and Protesting against a Ruling of a Court of the First Instance

The persons, who are listed in Article 498 of this Code, may lodge a private claim or a private protest against the ruling made by a court of the first instance, within ten days following the issuance of such ruling.

In the event of appealing or protesting against a ruling that was made during a court proceedings, which ended by the issuance of a judgement, the case shall be sent to a court of the cassation instance only after a

period fixed for appealing and protesting against the judgement has expired.

The rulings issued during court proceedings, where such ruling relate to a procedure for studying evidences, and the petitions lodged by the participants of proceedings, and related to a choice, alteration or cancellation of a punishment measure, and also related to the maintaining of order in a court hearing room shall not be subject to appealing and protesting in the procedure envisaged by Part I of this Article. Objections against them may be included in a cassation complaint or a cassation protest.

The persons, who are not the parties to this specific case, shall be entitled to appeal a court ruling if such ruling concerns their interests.

#### Article 505      Appointing Hearing of a Case and Summons for a Court Hearing

A chairman of a court of the first instance shall determine a date and place of considering by a superior court of the case, on which a cassation complaint or a protest has been received. The persons specified in Article 498 of this Code shall be notified on this accordingly.

Witnesses, experts and specialists shall be summoned to the court hearings at the discretion of the court.

#### Article 506      Procedure for Considering a Criminal Case at a Court of Cassation Instance

The chief judge shall open the court hearing, announce the case that is subject to consideration and elucidate the persons appeared before court hearing, upon this the court shall settle the question of possibility for consideration of the case. Further, the chief judge shall announce the members of court, the names of participants of the process appeared before court hearing, and ask the appeared persons whether they have requests for appeal. If any, the court shall come to a ruling on them.

The chief judge shall explain the appeared participants of the process their rights during the consideration of case in the cassation instance, elucidate whether the requirements of the Article 479 of this Code are observed and take measures on their execution if necessary.

The chief judge shall ask the persons participating in court hearing whether they have petitions to state. The court shall pass its ruling upon the petitions submitted. In case it is

necessary for compliance with the petitions, the court hearing shall be postponed.

The consideration of case shall begin with the report of one of the judges, stating the essence of the case, arguments for the complaint or protest and the essence of objections against them. In case of submission to court or request by court of additional materials the chairman of the court or the judge shall announce them and pass for acquaintance to the persons, participating in the case.

Appeared before court hearing convicted or acquitted persons, their defense attorneys, lawful representatives, the victim, civil plaintiff, civil respondent and their representatives shall give the explanations. The person that submitted the complaint shall speak first. If the case hearing is held on a protest, the procurator shall substantiate the protest. In case both the complaint and the protest are submitted the succession of statements shall be determined by court.

After the hearing of the aforementioned persons, the witnesses, experts and specialists called for the judicial session shall be questioned. The first to question them shall be the participant of the trial, under whose initiative they are called. If contradictions occur the ruling shall be made by the court.

Upon questioning of the witnesses, experts and specialists the court shall open the debates of the sides, which are to be held according to Article 449 of this Code. After completion of judicial debates and hearing of the last word of the convicted person the court shall leave for consultative room for pronouncement of the ruling.

The protocol of the court hearing shall be compiled on course and matter of the trial. It shall be prepared within terms, specified in Article 426 of this Code. All participants of the court hearing shall be entitled to familiarize with the protocol and, if necessary, enter the remarks in order, specified in Article 427 of this Code.

Article 507. The order of settlement of private complaints and private protests.

Private complaint or protest shall be considered simultaneously with cassation complaints or protests.

During the settlement of private complaint or protest, the chief judge shall request the opinion of all the participants of the court hearing, and announce, if necessary, the materials of the criminal case concerning the submitted complaint or protest. Under each private complaint or protest the court

pronounces the ruling on place or in the consultative room.

If only private complaint or protest have been submitted on case, the court that has passed the judgement, upon expiration of the term, set for the cassation appeal, shall direct the case to the superior court.

The settlement of private complaint or protest shall be held by the court with the invitation of the person who has submitted the complaint or protest, together with persons, on call of whom this person solicits or call of whom has been proven necessary by the court.

The ruling of court pronounced on private complaint or process shall be final.

Article 508. Additional consideration of criminal case in cassation instance.

If on any reason cassation complaint or protest regarding certain convicted persons, submitted during a specified term, shall arrive in court of the cassation instance after consideration of the criminal case regarding other convicted persons, or if the term is restored by the court in order, specified in Article 501 of this Code, and also if cassation complaint of the convicted person, his defense attorney or lawful representative is submitted, after the case concerning this convicted person has been considered under cassation complaint or protest of another participant of the process, the court of the cassation instance shall be obliged to consider such complaint or protest and to pronounce its ruling on it.

In case such ruling contradicts with the ruling pronounced earlier, the case shall be directed to the chairman of court, who is entitled to protest under supervision procedure, for settlement of the question of the appeal regarding one or both rulings.

The order of additional consideration of case may also be applied for settlement of private complaint and private protest that is submitted with delay.

Article 509. Ruling of court of the cassation instance.

The court of the cassation instance shall pronounce its ruling on the results of consideration of the case.

The ruling shall be reached by the majority of votes of the judges. The ruling shall be signed by all judges. The judge who has stayed in minority during the voting, having signed the

ruling, shall be entitled to state his special opinion in written form.

The ruling of court of the cassation instance may be appealed and protested as a matter of supervision.

#### **Chapter 57. Supervision procedure.**

Article 510. Persons entitled to appeal a verdict and ruling (or resolution) which has come into legal force.

Article 511. Persons entitled to protest the judgement and ruling (or resolution) which has come into legal force.

Article 512. Request of the criminal case for verification under supervision procedure.

Article 513. Terms, regulating reconsideration of judgements, rulings (or resolutions) of the court under supervision procedure.

Article 514. Terms for consideration of the petitions for supervisory protest.

Article 515. The rulings made on the petition for supervisory protest.

Article 516. Verification of the requested criminal case and pronouncement of the ruling.

Article 517. Suspension of verdict and ruling (or resolution) enforcement.

Article 518. Recall of the protest.

Article 519. Courts, considering the criminal cases on protests under supervision procedure.

Article 520. Procedure of criminal case consideration in court of the supervision instance.

Article 521. Repeal and alteration of rulings and resolutions of superior courts under supervision procedure.

Article 522. Ground for renewal of proceeding due to newly revealed circumstances.

Article 523. Terms for renewal of proceeding due to newly revealed circumstances.

Article 524. Institution of proceeding due to newly revealed circumstances.

Article 525. Investigation of newly revealed circumstances.

Article 526. Acts of the procurator upon completion of the investigation of newly revealed circumstances.

Article 527. Question settlement by court of renewal of proceeding due to newly revealed circumstances.



Article 510. Persons entitled to appeal a verdict and ruling (or resolution) which has come into legal force.

The judgement and ruling (or resolution) which have come into legal force may be appealed by persons, envisaged in Article 498 of this Code.

Article 511. Persons entitled to protest the judgement and ruling (or resolution) which has come into legal force.

Consideration under supervisory procedure of cases with judgments and rulings (or resolutions) which have come into legal force shall be admitted only with the protests of the procurator, chairman of court or their deputies, who are granted this right by law.

The protests can be made by:

- 1) The Chairman of the Supreme Court of the Republic of Uzbekistan - for judgements and rulings (or resolutions) of courts of all instances, Deputy Chairmen of the Supreme Court of the Republic of Uzbekistan, General Procurator of the Republic of Uzbekistan, his deputies - for judgements and rulings (or resolutions) of any court, except the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan;
- 2) The Chairman of the Supreme Court of the Republic of Karakalpakstan,

During the preliminary inquiry and trial on cases of juvenile delinquencies, apart from specified in Articles 82 - 84 of this Code the following circumstances are subject to substantiation:

- 1) exact age of juvenile defendant (day, month, year of birth);
- 2) distinctive personal features and health condition of juvenile;
- 3) conditions of life and upbringing (education);
- 4) presence or absence of adult instigators and other accomplices.

2) Chairman of the Supreme Court of the Republic of Karalalpakstan, chairmen of the region courts, of the Tashkent City court, procurator of the Republic of Karakalpakstan, procurators of regions, Tashkent City and equated with them procurators on judgments and rulings of district (city) courts; on rulings of judicial collegiate organs, accordingly, the Supreme Court of the Republic of Karakalpakstan, of regional and Tashkent City courts considering a case upon cassational appeal;

3) Chairman of the Military Court of the Armed Forces, Military Procurator of the Republics of Uzbekistan - on judgments and rulings of the Military Court of the Armed Forces that considered the case upon cassational appeal. (In the edition of the Laws of RU N 357-I of 27.12.96 and 20.08.99). See the comments.

Article 512. Reclamation of criminal cases for a supervisory procedure

Those mentioned in article 511 of this Code shall have the right to demand and obtain within their competency any criminal case for checking, taking ruling or entering in the supervisory protest.

The right to demand and obtain the case from district (city) courts shall also belong to the Deputy-Chairman of the Supreme Court of the Republic of Karakalpakstan, deputy-chairmen of the regions, Tashkent City courts deputies of the procurator of the Republic of Karakalpakstan, procurators of regions, Tashkent City, procurators of districts (towns), their deputies. The right to reclaim a case from the Military Courts of the garrisons shall also belong to the deputies of the Chairman of the Military Court of the Armed Forces, deputies of the military procurator of the Republic of Uzbekistan, military procurators and their deputies. (In the editions of the Laws N 681-I of 29.08.98, 20.08.99). **See the comments.**

Cases can be reclaimed on the occasion of the petitions from citizens, enterprises, offices, organizations, officials, advocates authorized to carry on the case upon supervisory procedure, presentation of judges and procurators, mass media information, and immediate discretion of those who have the right to reclaim the case.

Article 513. Periods during which a supervisory procedure can be enabled to the revise judgments, rulings (resolutions) of courts

A supervisory procedure regarding revision of judgment of guilt or ruling (resolution) court, if the protest states the issue of necessity to apply law about a more grave crime, about stronger punishment or other changes involving aggravation of the convict's situation, as well as revision of judgment of acquittal or ruling (resolution) of the court about the termination of case can be enabled only within one year after their enforcement.

Article 514. Terms of consideration of the petitions about the introduction of supervisory protest

Petitions on the introduction of the supervisory protest are subject to consideration within the period of up to one month, and in a case of reclamation and checking of the case - within the period of up to two months.

Article 515. Rulings adopted on the petitions about the introduction of supervisory protest

One of the following rulings should be adopted upon the received petition:

- 1) about the reclamation of the case, if the reasons contained in the petition raise doubts in the lawfulness and substantiation of judgment or ruling (resolution);
- 2) about the refusal to reclaim the case, if it is seen from the petition itself and the attached or reclaimed copies of court rulings and other materials that reasons presented in the petition are ungrounded and can not serve the basis for the introduction of the protest;
- 3) about transfer of the petition to a subordinated procurator or chairman of the lower court having the right to introduce the protest,

if they have not adopted the ruling about the refusal of the protest on judgment or ruling (resolution) on the given case.

Notification on the adopted ruling should be send to an individual, enterprise, office or organization that has submitted the petition.

Article 516. Checking of the reclaimed criminal case and adoption of the ruling

The criminal case reclaimed for the supervisory procedure shall be checked by the authorized person having the right to introduce the protest, or upon his mandate by the procurator or judge that has not been involved with the investigation of this case earlier.

Considering the judgment or ruling (resolution) unlawful and ungrounded the Chairman of the Supreme Court of the Republic of Uzbekistan, the Procurator General of the Republic of Uzbekistan, their deputies, the Chairman of the Supreme Court of the Republic of Karakalpakstan, chairmen of regional and Tashkent City courts, Procurator of the Republic of Karakalpakstan, procurators of the regions and Tashkent City, and equated with them procurators shall submit the protest and pass the case with the protest over to the respective supervisory authority. The protest should be attached with the petition or other materials that has served the basis for the protest. Introduction of the protest should be communicated to the person, enterprise, office or organization upon whose petition the protest has been introduced, as well as to the convicted, acquitted person or their defense attorneys or legal representatives.

Provided the absence of the basis to appeal against judicial rulings, the procurator or judge, checking the case, shall make up a justified conclusion subject to the approval of the person authorized to raise the protest, and filing, These is communicated to the person, enterprise, office or organization upon whose petition the case has been reclaimed, and the case itself shall be returned to the court.

The refuse to reclaim the case or introduce the protest can be appealed to the chairman of the higher court or the higher procurator.

Article 517. Suspension of execution of judgment and ruling (resolution)

The Chairman of the Supreme Court of the Republic of Uzbekistan and his deputies, the Procurator General of the Republic of Uzbekistan shall have the right to suspend execution of the judgment and ruling (resolution) of any court of the Republic of Uzbekistan until the end of the supervisory procedure upon the appeal. In the presence of data testifying for obvious violation of law, the above-named persons shall have the right simultaneously with the reclamation of the criminal case to suspend the execution of judgment and ruling (resolution) up to their appeal for the period of no more than three months.

Article 518. Revocation of the protest

The appellant shall have the right to revoke his protest. The higher procurator shall have the right to revoke the protest introduced

by the subordinated procurator. Revocation of the appeal can be enabled only prior to the beginning of case consideration by the supervisory authority. The protest and the document on its revocation should be kept in the file.

Article 519. Courts considering criminal cases on appeal for the supervisory procedure

Criminal cases, in the exercise of supervisory powers on appeals against judgments and rulings of district (city) courts, cassational rulings of the Supreme Court of the Republic of Karakalpakstan, regional and Tashkent City courts shall be considered by the presidiums of the above-said courts.

Cases on the appeals against the resolutions of the presidiums of the Supreme Court of the Republics of Karakalpakstan, regional and Tashkent City courts as well as judgments and rulings adopted by these courts during consideration of the case within the first jurisdiction, shall be considered by the Judicial Collegium of the Supreme Court of the Republic of Uzbekistan.

Cases on appeals against judgments and rulings of military courts of the garrisons, against cassational rulings of military courts of the Armed Forces shall be considered at the presidium of the military court of the Armed forces. Appeals against judgments and rulings of the military courts of the Armed Forces and resolutions of its presidium shall be considered by the Military Collegium of the Supreme Court of the Republic of Uzbekistan.

Cases on appeals against the enforced judgments and rulings of the Collegium of the Supreme Court of the Republic of Uzbekistan adopted within the first jurisdiction, as well as those adopted by the Collegium of the Supreme Court of the Republic of Uzbekistan within the cassational and supervisory procedures shall be considered within supervisory procedure by the Presidium of the Supreme Court of the Republic of Uzbekistan.

Case on appeals within the supervisory procedure against resolutions of the Presidium of the Supreme Court of the Republic of Uzbekistan shall be considered by the Plenary Session of the Supreme Court of the Republic of Uzbekistan.

If necessary case on appeals can be considered within supervisory procedure immediately by the Collegiums of the Supreme Court of the Republic of Uzbekistan, passing by the Supreme Court of the Republic of Karakalpakstan, regional and Tashkent City courts.

Article 520. The order of consideration of the criminal case in the court of supervisory jurisdiction

A criminal case shall be considered in the court of supervisory jurisdiction following the rules foreseen in the article 506 of the present Code. Provided, within consideration by the Presidium of the Supreme Court of the Republic of Uzbekistan, Supreme Court of the Republic of Karakalpakstan, regional and Tashkent City courts for and against appeal satisfaction, there shall be an equal number of votes, the appeal favoring the convicted (acquitted) shall be satisfied, when the appeal

stating issue of aggravation of the situation of the convicted (acquitted) shall be rejected.

Article 521. Cancellation and amendment of rulings and resolutions of higher courts within a supervisory procedure

Should the court of supervisory jurisdiction recognize the judgment of the court of the first jurisdiction to be wrongful and ungrounded, it will abrogate or also change the cassational definition as well as rulings and resolutions adopted within supervisory procedure, if such rulings have left the judgment unchanged. Along with this there can be adopted one of the rulings envisaged in the first part of Article 490 of the present Code.

Rulings of the courts of cassational jurisdiction, rulings and resolutions of the courts of supervisory jurisdiction shall also be subject also to cancellation or change should the court, considering the appeal, recognize that these rulings have unreasonably canceled or changed previous judgments or rulings; or violation of law has taken place within the cassational or supervisory procedure and, thus, has influenced or might have influenced upon correctness of the adopted ruling or resolution.

Abrogating the ruling or resolution adopted within a supervisory procedure the court shall have the right to leave in force, changed or unchanged, the judgment of the court of the first jurisdiction and the ruling of the cassational jurisdiction.

Article 522. Grounds for the reopening of the procedure in view of newly discovered circumstances

Grounds for the reopening of the procedure in view of newly discovered circumstances can be accounted for the following:

1) known to be false testimonies of the victim, witness or expert, identified by the enforced judgment of the court, as well as forgery of real evidence, minutes of investigating and judicial actions and other documents; or undoubtedly false translation that has entailed the ruling of unlawful and ungrounded judgement or definition (resolution);

2) criminal abuses of the inspector or investigator who ran the investigation of the case, or the procurator who supervised the investigation that have been identified by the enforced judgment of the court and entailed the ruling of unlawful and ungrounded judgement or definition (resolution);

3) criminal abuses by the judges admitted in the course of investigation of the case that have been identified by the enforced judgment of the court;

4) other circumstances, unknown to the court during rendering a judgement of ruling (resolution) that in themselves or together with earlier identified circumstances shall testify about the Innocence of the convicted or his commitment of another crime differed by the degree of gravity than the one he has been convicted for, or regarding guilt of the acquitted or other person in the relation to whom the case has been terminated.

Article 523. Terms for reopening proceedings in view of newly discovered circumstances

Revision of the accusatory judgment in view of newly discovered circumstances for the benefit of the convict shall not be limited by any term.

Death of the convict shall not hinder reopening of proceedings in view of newly discovered circumstances with the purposes of his rehabilitation.

Revision of the acquittal judgment or ruling (resolution) of the court regarding termination of the case, as well as revision of the accusatory judgment and ruling (resolution) of the court on the account of mildness of the punishment or necessity of application of the law regarding graver crime shall be enabled only within the period of limitations for bringing to liability set up by Article 64 of the Criminal Code, and no later than one year after the day of discovery of new facts.

The day of discovery of new facts shall be considered as follows:

1) in cases, envisaged in paragraphs 1 - 3 of Article 522 of this Code, it shall be the day of entry of judgment into legal force in relation to the persons guilty of giving false evidence, known to be wrong translation, or criminal abuses during investigation or trial in court;

2) in cases envisaged in paragraph 4 of Article 522 of this Code, it shall be the day of procurator's rendition of the resolution about reopening of the proceedings due to newly discovered circumstances.

Article 524. Institution of a proceeding in view of newly disclosed circumstances

The right to initiate proceedings in view of newly disclosed circumstances shall belong to the procurator.

Proceedings of newly disclosed circumstances can be initiated on the occasion of references of the citizens, report from the officials, enterprises, offices and organizations, public associations, mass media information as well as the data received immediately in the course of investigation and consideration of other cases.

Under the presence of sufficient data pointing out to one of the circumstances envisaged in paragraphs 1 - 3 of Article 522 of this Code, the procurator shall institute the criminal case to be then investigated and proceeded in a general order.

If there are data about the circumstances envisaged in paragraph 4 of Article 522 of this Code, the procurator within the limits of his authority shall initiate the resolution to institute the proceeding in view of newly disclosed circumstances and carry out their investigation or delegates this to the investigator.

Without seeing the basis to institute the proceedings in view of newly disclosed circumstances the procurator shall refuse those by his resolution. The refusal should be communicated to the person requesting initiation of the proceeding together with the explanation of his right to appeal against this resolution to the higher procurator.

Article 525. Fact-finding regarding newly disclosed circumstances

Limits of investigation of newly disclosed circumstances shall be bordered by finding those that lawfully serve the ground for criminal case initiation. Along with this interrogations, inspections, expertise and other necessary actions can be carried out under the rules stipulated by this Code.

Article 526. Actions of the procurator after finishing investigation of newly disclosed circumstances

In the presence of the grounds for proceeding initiation the procurator shall send the case to the court. In the cases envisaged in paragraphs 1-3 of Article 522 of this Code, such case shall be sent to the court together with the procurator's appeal and a copy of the enforced judgment; and in the case envisaged in paragraph 4 of the same article - together with the investigation materials.

Should there be no basis for the institution of the proceedings, the procurator shall issue a resolution to terminate case investigation. The latter should be communicated to the interested persons with the explanation of their right to appeal against such resolution to the higher procurator.

Article 527. Court's solution of the issue of initiation of the proceeding in view of newly disclosed circumstances

Procurator's appeal on the initiation of proceedings in view of newly disclosed circumstances shall be considered with regards to:

1) the cases, on which judgments and rulings have been instituted by district (city) courts and military courts of garrisons, presidium of the applicable higher court;

2) the cases on which judgments, rulings or resolutions have been instituted by the Supreme Court of the Republic of Karakalpakstan, regional and Tashkent City as well as by the military courts of the Armed Forces - by the applicable collegiate organs of the Supreme Court of the Republic of Uzbekistan;

3) the cases on which judgments or resolutions have been instituted by the Supreme Court of the Republic of Uzbekistan - by the Presidium of the Supreme Court of the Republics of Uzbekistan;

4) the cases on which resolutions have been instituted by the Presidium or Plenary Session of the Supreme Court of the Republic of Uzbekistan - by the Plenary Session of the Supreme Court of the Republic of Uzbekistan.

Section twelve. Implementation of judgments, definitions, resolutions

## **Chapter 58. Administration of execution of judgments, definitions, resolutions**

Article 528. Lawful enforcement of judgment and its execution

Article 529. Release from under guard in the courtroom

Article 530. Enforcement of ruling, court ruling and their execution

Article 531. The order of administration of execution of judgment, ruling and resolution

Article 532. Rights of the convict at the stage of judgment execution

Article 528. Lawful enforcement of the judgment and its execution

The judgment shall be lawfully enforced upon the expiration of the term of cassational complaint and appeal. In case of cassational complaint or appeal against the judgment, if the latter has not been canceled, shall become lawfully enforced on the day of the higher court trial.

In case of two or more convicts, if the judgment was appealed or protested regarding one of them, the judgment shall not become lawfully enforced with regards to all convicts until it has been considered by the higher court.

The judgment turns to be executed by the court that has adopted it no later than three days after the date of becoming res judicata or return of the case from the cassational jurisdiction. The case shall be subject only to the court of the first jurisdiction and can not be sent to the procurator or another court.

Article 529. Release from under guards in the courtroom

After announcing the judgment the court shall immediately release from under guards in the courtroom:

- 1) the acquitted;
- 2) convicted without assigned punishment;
- 3) convicted with relieved from punishment;
- 4) convicted to imprisonment for the term that does not exceed the time he has spent under guards because of detainment or application of measure of restraint, or serving punishment following the judgment that has been canceled during supervisory procedure;
- 5) convicted to conditional deprivation of freedom;
- 6) convicted to punishment irrelevant with deprivation of freedom.

Article 530. Lawful enforcement of ruling, resolution of the court and their execution

Ruling of the court of first jurisdiction shall become lawfully enforced upon the expiration date of submission of private complaint and private appeal for cassational procedure or in case of complaint or appeal - after higher court trial.

The court ruling which is not subject to appeal, cassation shall become immediately effective and shall be carried into execution immediately on its adoption.

The court ruling about termination of criminal case regarding release of the accused or charged from under guards shall be subject to immediate execution.

The court ruling of the cassational jurisdiction shall become lawfully enforced since the moment of its announcement.

The higher court ruling, resolution shall be turned to execution following the rules stipulated by Article 497 of this Code.



Article 531. Procedure of execution of the judgment, ruling and resolution

Procedure of execution of the judgment, ruling and resolution shall be vested upon the court that has taken such a ruling.

The ordinance about the execution of the judgment shall be sent by the judge or chairman of the court together with a copy of the judgment to body entrusted with the execution of the judgment.. In case of the change of the judgment or cassational or supervisory trial the copy of the judgment should be attached with the copy of ruling or court rulings of the cassation or supervisory authority.

Judgment execution authorities should immediately notify the court that has issued the judgment about its execution. Administration of the punishment execution establishment shall be obliged to notify the court that has issued the judgment on the location of the convict's executing punishment.

Untimely or incomplete execution of judicial ruling shall involve the responsibility pursuant to the legislation.

In case of necessity the copy of the enforced judgment shall be sent to the place of work, study or habitation of the convicted person.

In case of necessity information about the effected judgment should be published for public through press and other means of mass media.

If the court has taken the ruling to deprive of the military rank or special civil rank of the convict, the court shall send the copy of the judgment to the execution to the body (organ) that has assigned this rank. In case of accusatory judgment of the person with the state awards or having the highest military rank, or special rank the court shall decide the issue of the expediency of issuing the notion for the respective organ to deprive such person of these awards or ranks.

To execute the judgment regarding imposition of fine, appropriation of property and other proprietary penalties, writs of execution or their duplicates shall be sent to the law enforcement officers on the habitation of the convicted person, or on a place of serving the punishment, and also on a place of his property location.

The court shall be obliged to inform the family of the convict about the lawful enforcement and administration of execution of the judgment by which the charged person under guards has been judgementd to deprivation of freedom.

Meetings with the convict kept under guards shall be provided before the administration of the execution of the judgment following Article 477 of this Code.

If the court has taken a ruling about transfer of minor children of the convict who has been judgementd to deprivation of freedom into guardianship of the establishments, relatives or other persons, the court should inform the organ of guardianship in the location of children, as well as the convict himself.

The necessity to take safety measures regarding property and residence of the convicted person that were left without attendance, the court shall inform the khokimiyat or community self-government institution on the location of the property and residential area, and notifies the convicted person about this.

Article 532. Rights of the convicted person at the stage of judgment execution

At the stage of execution of the judgment the convicted person shall have the right: to address to the court with an application on the postponement of execution of judgment; on relief from serving punishment because of illness or disablement ; on conditional relief from punishment before time and substitution of the unserved part of the punishment by a milder punishment; on the change of conditions of detainment in the places of execution of punishment and on other matters envisaged in this Code; to participate in the court trial, be testified and present evidences, to declare petitions and challenges; to get acquainted with all the materials of the case; submit complaints about actions and rulings of the court.

**Chapter 59. Solution of the problems arising at the execution of judgments, rulings and resolutions**

Article 533. Postponement of judgment execution

Article 534. The order of relief from serving the punishment because of illness

Article 535. The order of cancellation of conditional conviction

Article 536. The order of conditional relief from punishment before time and substitution of punishment for a milder one

Article 537. Change of conditions of detention of the persons convicted to deprivation of freedom during serving the punishment

Article 538. Placement of the convict into investigative solitary confinement room.

Article 539. The order of substitution of fine and correctional tasks by other punitive measures

Article 540. The order of execution of judgment under the presence of other underexecuted judgments

Article 541. Courts solving the problems bound with execution of judgment, ruling and resolution

Article 542. The order of solution of the matters bound with execution of judgment, ruling, resolution

Article 543. Consideration of test period

Article 544. Consideration of expunging of record of conviction

Article 545. Consideration of petitions regarding inclusion of period of correctional work of the convict into his working total labor experience

Article 546. Consideration of applications about offsetting time of limitation on service, detainment in a disciplinary unit

Article 533. Postponement of judgment execution

Execution of judgment concerning the person convicted to deprivation of freedom, can be postponed by the judge on presence of one of the following grounds:

1) serious illness of the convict interfering with serving punishment until his complete recovery;

2) pregnancy of the convicted woman by the moment of execution of the judgment - for the period that does not exceed one year;

3) presence of a minor child with the convicted woman - until the child becomes three years old;

4) when immediate serving of punishment can entail for particularly gross consequences for the convict or his family in view of fire or other natural calamities, serious illness, death of the only family member capable of working or other exclusive circumstances - for no longer than three month period.

The matter of postponement up to six months or installment of execution of judgment regarded to imposition of fine, civil suit or damage recovery shall be solved by the judge upon consideration of concrete circumstances of the case and material provision of the convicted person.

Postponement of execution of the judgment cannot be applied to especially dangerous recidivists and to the individuals that have committed especially grave crimes.

Article 534. The order of relief from serving punishment because of illness

In case, when the convicted person serving the punishment got chronic mental or other serious disease interfering with serving of the punishment, the judge, upon the presentation of the body executing the punishment supported with the conclusion of a special medical commission, shall have the right to issue the ruling of relief of such convict from further serving of the punishment.

In case of relief of the convict fallen with chronic mental disease from further serving of the punishment, the judge shall have the right to either apply surrender medical measures to him or transfer him under the guardianship of medical bodies or relatives.

In case of convalescence of such persons, the court shall issue the ruling of execution of the assigned punishment, if it has happened before the expiration of prescription period for the execution of the punishment.

During consideration of the matter of relief from further serving of the punishment of those who has seriously fallen ill, except for the persons fallen ill with a chronic mental disease, the judge shall have to consider the gravity of the committed crime, personality of the convict and other circumstances.

Releasing the convict from further serving of the punishment because of illness the judge shall have the right to release him not only from the major but also from the additional measure of punishment, and this should be mentioned in the ruling.

Article 535. The order of cancellation of probation

If a conditionally convicted person fails to fulfill the duties assigned for him by the court during a trial period of probation or admits disturbances of public peace or labor discipline entailing application of the administrative penalty or disciplinary measures, then upon the presentation of the body accomplishing supervision over his conduct, the court can issue a definition about cancellation of probation

and execution of the punishment assigned by the judgment in conformity with part sixth of Article 72 of the Criminal Code.

Article 536. Order of conditional relief from punishments before time and substitution of the punishment by a milder one

Conditional relief from punishment before time and substitution of the incomplete part of the punishment by a milder punishment in cases stipulated by Articles 73 and 74 of the Criminal Code, shall be applied by the judge upon the presentation made by the administration of the body executing punishment.

To those serving the punishment in a disciplinary unit the same measures shall be applied by the judge upon the presentation of the commanders of this disciplinary unit.

Petition on conditional relief from punishment before time and substitution of the incomplete part of the punishment for a milder punishment in the relation to the persons that have committed a crime under the age of eighteen, shall be applied by the judge upon joint submission of management on the execution of punishment and Commission on Juvenile Affairs, or upon the petition submitted by the convict himself, or his defense attorney.

Relief from punishment in the form of deprivation of a certain right shall be issued by the judge upon the petition from a public association, collective, a convict himself or his defense attorney.

Re-examination of the petitions introduced on such issues can take place not earlier than on the expiration of a six month period since the day of issuance of the resolution about refusal.

Article 537. Change of conditions of maintenance of the persons convicted to deprivation of freedom during serving the punishment

Transfer of the charged convict from a colony of punishment execution of one regime to the colony of another regime, from prison to colony and from colony to prison on the grounds stipulated by the legislation shall be made by the judge upon the presentation of the management of the body of punishment execution as well as upon the application of the convict himself or his defense attorney.

In case the transfer of the charged convict from a colony of punishment execution of one regime to the colony of another regime, from prison to colony and from colony to prison has been rejected by the judge, re-examination of the presentation or petition shall become possible not earlier, than on the expiration of the six month period since the date of issuance of the resolution about such refusal.

Transfer of the convict from an educational colony to the colony of execution of punishments and from an educational colony of general regime to the reinforced regime educational colony on the basis envisaged by the legislation shall be carried out by the judge upon the presentation of the management of the educational colony agreed upon with the Commission on Juvenile Affairs.

In the course of ruling of the matter of transfer of the convict that has reached the age of eighteen, from the educational colony to the colony of execution of punishments, the judge should take into account

the degree of his correction. The convicted person can be left with the educational colony for further serving of punishment, but for no longer than reaching the age of twenty.

Article 538. Placement of the convict into investigative solitary confinement room.

In case of necessity to carry out investigative actions upon the criminal case committed by another person, the convicted to deprivation of freedom with serving the punishment in a colony of execution of punishment or educational colony, can be placed into investigative solitary confinement room, upon the sanction of the procurator of the Republic of Karakalpakstan, procurators of regions and of Tashkent City, as well of those equated to them - for up to a three month term; and with the sanction of the Procurator General of the Republic of Uzbekistan or his deputies - for up to a six month term, or in connection with the consideration of the case in the court - for a term of the trial determined by the court

Article 539. The order of substitution of fine and correctional tasks by other punitive measures

Substitution of fine and correctional tasks by other punitive measures shall be implemented by the judge pursuant to Articles 44 and 46 of the Criminal Code upon the presentation of the body of interior or upon the petition from a public association or collective.

Article 540. The order of execution of judgment under the presence of other underexecuted judgments

In case of several unexecuted judgments related to the same convict and unknown to the court that has issued the latest judgment, the district (city) court in the place of execution of judgment shall issue a ruling on the application of punishment to the convict on all stated judgments under the guidance of Article 60 of the Criminal Code.

Article 541. Courts solving the problems bound with execution of judgment, ruling and resolution

Issues of release from serving the punishment in the form of deprivation of freedom for the invalids of the first and second degree, of postponement of execution of judgment, of non-execution of the judgment, of substitution of fine and correctional works by other punitive measures, of inclusion of correctional work term into the total working period, of changing or termination of application of the enforcement medical measures to people suffering from mental disorders, of application, continuation or termination of the enforcement treatment related to those suffering from alcoholism or drug addiction, as well as any doubts and ambiguity emerging in the course of execution of the judgment shall be solved by the court that has issued the judgment. If the judgment is executed beyond the district of judgment issuing court, these problems shall be solved by the equivalent court, and in the absence of the equated court in the district - by the higher court. In such a case copy of the ruling shall be sent to the court that has issued the judgment.

Matters of release from serving the punishment because of illness or physical disability, of conditional relief from the punishment before time, of substitution of the incomplete part of punishment by a milder punishment, of cancellation of conditional conviction, of transfer from one colony of execution of punishments or educational colony to another colony, from a colony of execution of punishment to jail and from jail to a colony of execution of punishments - shall be decided by the judge of district (city) court in the place where the convict is serving the punishment.

Issues of shortening of the probative term under conditional conviction or cancellation of probation and sending the convict to serve his punishment assigned by the judgment, of release of convict from the punishment, in the relation to which execution of judgment has been postponed, and also cancellation of the postponement of execution of judgment and sending the convict for serving deprivation of freedom, of expunging of record of conviction, shall be solved by the judge of the district (city) court on the habitation of the convicted person.

Article 542. The order of solution of the matters bound with execution of judgment, ruling, resolution

Issues of execution of judgment shall be solved by the judge during judicial sitting with the participation of the procurator and the convict who is ensured with the rights envisaged in Article 532 of the present Code. When the judge considers the problems bound with the execution of judgments regarding the convicts that have not reached the age of eighteen, as well as those suffering from physical or mental disability, participation of the defense attorney shall be mandatory.

If the issue concerns the execution of judgment regarding civil suit, civil plaintiff, civil defendant or their representatives shall be also summoned to the judicial session. Absence of the above mentioned persons shall not hinder the consideration of the case.

Problems of release from serving the punishment because of illness, physical disabilities, of conditional relief from punishment before time, substitution of the incomplete period of punishment by the milder punishment, cancellation of conditional convictions, transfer from one colony of execution of punishment to another colony of different regime, from educational colony of one kind of regime to an educational colony of different regime, from educational colony to the colony of execution of punishment, from the colony of execution of punishment to prison, and from prison to a colony of execution of punishment, from a colony of execution of punishments of special regime to the colony of execution of punishment with strict regime, of inclusion of the period of serving correctional work into total working period, shall be solved by the ruling of district (city) court on the place where the convicted person serves the punishment.

When the case undergoes consideration upon joint presentation of management of the body on execution of punishment, and the Commission on Juvenile Affairs, the judge shall notify the commission about the time and place of consideration of the application.

With the purposes of educational effect on other convicts, consideration of conditional release before time can be carried out on-

site in the colony of execution of punishment or in the educational colony.

Consideration of the case starts with the announcement of the petition or application followed by the judge's study of the materials or hearing of the opinion of all who came to the judicial session. Last word shall be given to the convict or his defense attorney. Then the judge leaves for a separate room to issue the resolution.

Article 543. Article 543. Consideration of test period

When the judge considers the issues connected with the decrease of the test period established for conventionally convicted, the session of the court requests the presence of the representatives of the organs exercising control over their behavior, as well as of the public association or collective that are watching the convict and carrying out educational work with him.

Article 544. Consideration of expunging of record of conviction

The issue of expunging of record of conviction shall be decided by the judge under the application of the person that has served his punishment, his defense attorney or legal representative, or under the petition from the public association or collective.

Participation of the person in whose relation the issue of expunging of record of conviction is to be considered shall be compulsory. This person shall be provided the right to have the defense attorney. If the petition to expunge of record of conviction has been initiated by public association or collective, participation of their representative at the in session of the court shall be compulsory.

Consideration of the issue of expunging of record of conviction shall start with the announcement of the received petition, after which the judge shall listen to the opinions of the attending persons and leave for a separate room to issue the ruling.

In case of refuse to expunge the record of conviction, another petition on the same matter can be placed before the judge not earlier than after the expiration of one year since the date of issuance of the definition about such refusal.

Article 545. Consideration of petitions regarding inclusion of period of correctional work of the convict into his working total labor experience

The issue of inclusion of the period of correctional work of the convict into his working total labor experience shall be considered by the district (city) courts on habitation of the person serving the punishment upon the petition of public association or collective, and in case of working disability of the person by his own application.

During judge's consideration of the issue of inclusion of the period of correctional work of the convict into his working total labor experience shall request the compulsory presence of the person in whose relation the petition has been formulated, and also the representative of public association or collective that have initiated these issues.

Consideration of inclusion of the period of correctional work of the convict into his working total labor experience shall start with the announcement of the received documents, after this the judge shall listen to all called for the court, establish the data testifying for conscientious work and exemplary behavior of the convicted person in course of serving correctional works.

Definition of the judge upon the application for inclusion of the period of correctional work of the convict into his working total labor experience including in general (common) working experience can be appealed at the higher court.

Article 546. Consideration of applications about offsetting time of limitation on service, detainment in a disciplinary unit

The problem of offsetting the time of limitation on service or maintenance in a disciplinary unit at the in time of military service is considered by the judge of the Military courts of garrison immediately after the expiration of these types of punishment on the basis of the application submitted by the commanders in the order envisaged in article 545 of this Code.

### **Section thirteenth**

#### **Execution on separate categories of criminal cases**

#### **Chapter 60. Proceedings on the juvenile crime cases**

Article 547. The order of proceedings on the juvenile crime cases

Article 548. Circumstances subject to proving on the juvenile crime cases

Article 549. Participation of legal representative of the juvenile

Article 550. Ensuring participation of the defense attorney in the juvenile crime cases

Article 551. Involvement of representatives of enterprises, offices and organizations in the trial of the juvenile crime cases

Article 552. Filing accusation of the juvenile

Article 553. Interrogation of juvenile suspect and accused

Article 554. Participation of the teacher or psychologist in the interrogation of the accused juvenile

Article 555. Measures of restraint applied to the accused juvenile

Article 556. The order of transfer of the juveniles under guardianship

Article 557. Placement of the juvenile with the children's establishment

Article 558. Detention of the accused juveniles

Article 559. Conclusion of preliminary inquest and familiarization of the juvenile with the materials of the case

Article 560. Consideration of cases on juvenile crimes at the closed trial in the court

Article 561. Expelling the juvenile defendant from the trial court-room

Article 562. Notification of the Commission on Juvenile Affairs on the consideration of the case

Article 563. Issues solved by the court during issuing the judgment to the juvenile defendant

Article 564. Release of the juvenile from liability or punishment with the application of the enforcement measures



Article 547. The order of proceedings of juvenile crime cases

The order of proceedings on the crime cases of the juveniles that have not reached the age of eighteen by the time of criminal commitment shall be determined by the general rules and also Articles 548-564 of this Code.

Article 548. Circumstances subject to evidence in the cases on juvenile crimes

Article 549 Participation in case of lawful representative of juvenile.

During the trial on cases of juvenile delinquencies, participation of lawful representative is obligatory.

Lawful representative is admitted to participation in the case upon resolution of the examining judge or inspector since the first interrogation of the juvenile suspect or defendant. In case of admittance to participation in the case, the lawful representative shall be familiarized with the rights, envisaged in Article 61 of this Code.

By resolution of the examining judge, inspector or by ruling of court the lawful representative of juvenile may be barred from participation in the case, if there are reasons to assume, that his actions contradict with the interests of juvenile. In this case the defense of interests of the juvenile shall be entrusted to another lawful representative, guardian or trustee.

Article 550. Provision of participation of defense counsel in cases of juvenile delinquencies.

Examining judge or inspector shall take measures for provision of participation of defense counsel in case since the first interrogation of the juvenile suspect or defendant. For this the juvenile and his lawful representative shall be familiarized with the right to invite the defense counsel of their choice. If the defense counsel is not invited by juvenile, his lawful representative or other persons under their authority or by their consent, the examining judge, inspector or the court shall be obliged at own initiative to provide participation of defense counsel in the case.

Article 551. Attraction of companies, institutions and organizations representatives for participation in trials on cases of juvenile delinquencies.

The court shall notify of time and place of trials on cases of juvenile delinquencies the parents, substituting persons, companies,

institutions and organizations where the juveniles were enrolled or employed, juvenile, and other organizations if necessary. The court shall be entitled to request the attendance of representatives of the aforementioned organizations and guardian of the defendant at the court hearing.

Article 552. Accusation of juvenile.

The lawful representative shall be entitled to attend during the accusation of juvenile together with the defense counsel.

Article 553. Interrogation of juvenile suspect and defendant.

Interrogation of juvenile suspect and defendant shall be held at presence of the defense counsel.

Lawful representative of juvenile may attend the interrogation at permission of the inspector.

The defense counsel and lawful representative shall be entitled to pose questions to suspect and defendant. Upon completion of interrogation the defense counsel and lawful representative shall be entitled to familiarize with the protocol and state their remarks on it.

The duration of juvenile suspect or defendant interrogation within a day may not exceed six hours, excluding one-hour interval for rest and eating.

Article 554. Participation of pedagogue or psychologist in the interrogation of juvenile defendant.

Pedagogue or psychologist may assist at the interrogation of juvenile defendant under authority of inspector or procurator. If permitted by inspector, he may pose questions to the defendant, familiarize with the interrogation protocol upon the end of interrogation and state his remarks on correctness and completeness of the protocol in written form. Inspector shall explain these rights to the pedagogue or psychologist before the interrogation of juvenile with the reflection of this in protocol of interrogation.

Article 555. Preventive punishments (restraints) applied to juvenile defendant.

Under availability of grounds, envisaged in Article 236 of this Code, one of preventive punishments may be applied to the juvenile defendant, as stated in Article 237 of this Code. Juvenile defendant may also be brought under guardianship of parents, guardians or heads of child welfare institution, if juvenile is being raised in such institution.

Lawful representative, or if none, other relatives shall be notified of application of a preventive punishment to the juvenile defendant.

Article 556. Order of bringing the juvenile under guardianship.

Bringing under guardianship of parents, guardians, trustees or heads of child welfare institutions consists of taking by the aforementioned persons a written obligation to provide the appearance of juvenile before inspector, procurator or court, together with the accomplishment of other duties of the defendant, as stated in Article 46 of this Code.

Bringing under guardianship of parents, guardians, trustees or other person may be possible only at their consent and at consent of the juvenile.

Prior to bringing under guardianship, the court shall be obliged to collect information on parents, guardians or trustees, on their interrelations with the juvenile, and to ensure their ability to properly undertake the guardianship over the juvenile.

Parents, guardians, trustees shall be entitled to refuse from the guardianship over the juvenile at any time, under circumstances of being ill, busy at work or under worsening of relations with the juvenile, that is due to impossibility of provision of proper behavior of the juvenile.

During signing of taking the juvenile under guardianship the parents, guardians, trustees, heads of child welfare institutions shall be notified of the essence of conviction, under which the given preventive punishment is selected, of punishment the juvenile may take, and responsibility of the aforementioned persons in case the juvenile commits the acts, prevention of which has caused bringing the juvenile under guardianship. This information shall be reflected in the protocol of bringing under guardianship or in the protocol of court hearing.

The person undertaking the guardianship over juvenile may be charged with responsibility, as prescribed by law, due to failure of the defendant to perform his functions.

Article 557. Placement of juvenile to the child welfare institution.

Under availability of grounds for application of preventive punishment in cases when the juvenile convict, defendant may not remain at place of former residence due to conditions of life and upbringing, the juvenile by resolution of inspector, approved by the procurator, or by ruling of court may be placed to the child welfare institution.

Article 558. Placement under custody of juvenile defendant.

Placement under custody as a matter of preventive punishment may be applied to the juvenile solely upon availability of grounds, envisaged in Article 236 of this Code, and in exceptional cases, when charged with crime commitment that may be followed by imprisonment for a term exceeding three years, and when other preventive measures may not provide the proper behavior of the defendant.

When giving the sanction for arrest of juvenile, the procurator shall be obliged to familiarize with the case materials, verify the grounds for arrest, be persuaded in exclusiveness of the case and interrogate the defendant on the circumstances, related to application of this preventive punishment.

Juveniles taken under custody as a matter of preventive punishment shall be kept apart from adults and convicted juveniles.

Article 559. Completion of preliminary inquiry and familiarization of juvenile with the materials of case.

Lawful representative shall be entitled to assist when the juvenile is notified of completion of preliminary inquiry and submission of case materials. Inspector shall be obliged to notify the lawful representative of time and place of familiarization of the defendant with the case materials.

Inspector shall be entitled to issue a resolution on non-submission of materials of the case file, which may negatively influence the build of personality, to the juvenile defendant.

Article 560. Consideration of cases of juvenile crime at closed court hearing.

In events, envisaged in Part 1 and 2 of Article 19 of this Code, the consideration of cases of juvenile crime is held at closed court hearing.

Article 561. Removal of juvenile defendant from the hall of court hearing.

The court, having heard the opinions of the defense counsel, lawful representative of juvenile defendant, procurator, shall be entitled to remove by its ruling the juvenile from the hall of court hearing for the time of examining of circumstances which may negatively influence the defendant.

Upon return of juvenile the chief judge shall notify the defendant in a required manner the matter of consideration, which took place during his absence, and entitle the juvenile to pose questions to persons, that have been interrogated without his presence.

Article 562. Notification of case consideration of the committee of minors.

The court shall notify, if necessary, the committee of minors of time and place of case consideration of juvenile delinquencies. The court shall also be entitled to call the committee representatives for interrogation as witnesses.

Article 563. Questions settled by court during the pronouncement of a ruling regarding juvenile defendant.

During the pronouncement of a ruling regarding juvenile defendant, besides the questions specified in Article 457 of this Code, the court shall be obliged to discuss the necessity of appointment of a social educator for the juvenile in cases when (probation) conditional conviction, or punishment, not related to confinement (deprivation of liberty) is applied.

Article 564. Discharge of a juvenile from liability or punishment with application of compulsory measures.

During discharge of a juvenile from liability with transfer of materials for consideration in accordance with Part 1 of Article 87 of the Criminal Code, the inspector, procurator shall issue the resolution and the court shall pronounce the ruling.

During consideration of cases regarding juvenile, in cases, envisaged in Part 2 and 3 of Article 87 of the Criminal Code, the court shall be obliged to discuss the question of discharge of a juvenile from punishment and of application of compulsory measure. Upon application or non-application of compulsory measure the court shall pronounce a motivated ruling.

Ruling on application or non-application of compulsory measure may be appealed and protested in general order.

Chapter 61. Proceeding of cases on application of compulsory measures of medical matter.

Article 565. The order of consideration of questions on application of compulsory measures of medical matter.

Article 566. Circumstances, subject to substantiation.

Article 567. Forensic-psychiatric expertise.

Article 568. Questions, elucidated by forensic-psychiatric expertise.

Article 569. Suspension of proceeding of criminal case during placement of person to medical institution.

Article 570. Participation of person in proceeding of investigative and judicial actions.

Article 571. Participation of defense counsel.

Article 572. Resolution on passing the case to the court.

Article 573. Submission of case to the procurator and passing the case to the court.

Article 574. Preparation of case for trial.

Article 575. The trial.

Article 576. Questions, settled by the court in a separate room.

Article 577. Ruling of court.

Article 578. Repeal or alteration of compulsory measure of medical matter.

Article 579. Renewal of proceeding of cases on application of compulsory measure of medical matter.

Article 580. Alteration or repeal of compulsory measure of medical matter and renewal of its proceeding.

Article 581. Lodging an appeal or protest for ruling of court.

Article 565. The order of consideration of questions on application of compulsory measures of medical matter.

The order of consideration of questions on application of compulsory measures of medical matter shall be determined by general rules and by Articles 566 - 588 of this Code.

Article 566. Circumstances, subject to substantiation.

The presence of mental illness, which appeared after commitment of crime and which excludes the possibility of application of punishment, shall be subject to substantiation in case on crime of a person, who has since then acquired mental illness.

The following shall be subject to substantiation in case on commission of publicly injurious deed:

- 1) circumstances, envisaged in Parts 1, 2 and 5 of Article 82 of this Code;
- 2) presence of chronic mental illness, temporary mental disorder, imbecility or other unhealthy condition at the moment of commission of deed, that caused the condition of diminished responsibility, that is the person was unable to realize his actions or control them;

3) psychic condition of this person at time of preliminary investigation and case hearing.

Together with that, on case of a person, who acquired mental illness after commission of crime, and on case of criminal lunatic, who has committed publicly injurious deed, the following circumstances shall be subject to substantiation, which provide ground for ruling, whether further behavior of person poses danger for himself and the society, whether the person requires treatment and whether and of what kind application of compulsory measures of medical matter is necessary.

Article 567. Forensic-psychiatric expertise.

Inspector or the court shall appoint forensic-psychiatric expertise on questions of mental illness of the accused, defendant, or person, who is not involved in the case as accused or defendant, only upon availability of verified evidence of crime commission by the person, or of publicly injurious deed, envisaged in Criminal Code, if substantiated doubts on lunacy or psychic health of this person by time of preliminary investigation or case hearing appear.

Article 568. Questions, elucidated by forensic psychiatric expertise.

During realization of forensic-psychiatric expertise the following question shall be subject to verification:

- 1) whether at time of commission of publicly injurious deed the person was in condition of mental illness, temporary mental disorder, imbecility or other unhealthy condition, due to which the person was unable to realize his actions or control them;
- 2) whether at this time the person is in condition of mental illness, due to which conviction and punishment may not provide correctional influence;
- 3) whether this illness is chronic or whether the person may be recovered within a certain period of time;
- 4) whether the mental illness may provide ground for new commission of publicly injurious deed;
- 5) whether the person is capable of properly giving evidence, participating in inspections, examinations, experiments and other investigative or judicial acts;
- 6) whether at this time the person possesses mental disabilities, which do not exclude responsibility, and their origin.

Placement of person to medical institution for expert examination shall be held with observation of rules, envisaged in Articles 265 - 269 of this Code.

Article 569. Suspension of proceeding of criminal case during placement of person to medical institution.

If the fact of mental or other serious illness of suspect, defendant or convict has been proven by the resolution of medical expertise or by other medical documents and the stationary expertise is held in order to clarify the diagnosis, settle the question of responsibility, capability, and to select a compulsory measure of medical matter, then the proceeding of case may be suspended for a period of placement of person to medical institution, if no necessity for other legal proceedings is present.

Suspension of proceedings on case shall not suspend the terms of custody of the accused and of stay in medical institution, specified by law.

Article 570. Participation of person in proceeding of investigative and judicial actions.

If the person being the subject of case on application of compulsory measure of medical matter was cured or transferred into condition of stable remission and thus capable of properly giving evidence at interrogations and participating in other investigative or judicial acts, then the inspector and the court shall be obliged to provide this person with an opportunity to participate in the investigation, court hearing and to realize his right for defense.

The person being the subject of case on application of compulsory measure of medical matter shall be entitled to: know the commission of publicly injurious deed he is being charged with; give testimonies; provide evidence; lodge petitions; familiarize with all the case materials upon completion of preliminary investigation; have a defense counsel; participate in case hearing; announce challenges; lodge complaints for acts and rulings of investigator, procurator or the court.

The rights, envisaged in Part 2 of this Article, shall be explained to the person by inspector during the announcement of a resolution on initiation of proceedings on application of compulsory measures of medical matter and appointment of forensic-psychiatric expertise. A protocol shall be compiled on definition of the rights.

During proceeding of particular investigative and judicial actions this person shall possess the rights as specified by this Code for accused and defendant.

Article 571. Participation of defense counsel.

In proceeding of case on application of compulsory measures of medical matter the participation of defense counsel shall be obligatory since pronouncement of a resolution on appointment of forensic-psychiatric expertise.

Upon entering the case the defense counsel shall be entitled to conduct a meeting in private with the defendant, unless the health



condition of the defendant impedes this, and to use all the rights, envisaged in Article 53 of this Code.

Prior to submission for execution of the resolution or ruling on the appointment of forensic-psychiatric expertise, inspector or the court shall be obliged to familiarize the defense counsel with it and provide him with the rights to: announce challenge to the appointed expert or expert institution; request for appointment of a particular person as an expert; pose expert additional questions; request for permission to assist at the expertise. Under availability of grounds inspector or the court shall satisfy the petition of the defense counsel and enter certain alterations and amendments to the resolution or ruling on appointment of the expertise.

The rule of obligatory participation of a defense counsel in the case, envisaged in Part 1 of this Article, continues to be in force, if according to conclusion of forensic-psychiatric expertise the defendant has acquired a mental illness after commission of crime, or is in condition of diminished responsibility or has mental disabilities that do not exclude the possibility of responsibility, but impede with personal realization of the right for defense.

If further upon the ground of conclusion of forensic-psychiatric expertise the person is proven to be responsible and mentally healthy, the question of participation of a defense counsel in the case shall be settled in general order.

#### Article 572. Resolution on passing the case to the court.

Upon familiarization of participants of the process with the case materials and satisfaction of petitions, the inspector issues the resolution on passing the case to the court.

In the descriptive-motivational section of the resolution the inspector shall state the circumstances, envisaged in Article 566 of this Code, together with arguments of the defense counsel and other persons who dispute the grounds for passing the case to the court, if such were expressed, and shall adduce evidence with reference to the case file, that in his opinion approves the presence of such grounds.

The list of persons subject to be summoned for court hearing, reference on terms of proceeding of preliminary investigation, on terms of being under custody and in medical institution of the person who is the subject of conducted investigation, on material evidence, on civil suit and measures for its satisfaction, and on procedural expenses.

#### Article 573. Submission of case to the procurator and passing the case to the court.

The inspector shall pass to the procurator the case on application of compulsory measures of medical matter with the resolution on passing the case to the court.

The procurator, having familiarized himself with the case, pronounces on of the following rulings:

- 1) to dismiss the case upon grounds, envisaged in Articles 83 and 84 of this Code;
- 2) to return the case to the inspector for proceeding of an additional investigation;
- 3) to approve the resolution and pass the case to the court.

Article 574. Preparation of case for trial.

The judge, having received the case on application of compulsory measures of medical matter from the procurator, shall appoint the case for the trial, that is to be conducted under rules, envisaged in Articles 395 - 405 of this Code.

Article 575. The trial.

The trial shall be conducted under rules, envisaged in Chapters 50 - 52 of this Code.

The procurator and the defense counsel shall be obliged to participate in the trial.

The judicial investigation shall begin with the announcement by procurator of the resolution on passing the case to the court. Followed by this the court with participation of the sides shall examine the evidence that proves or refutes the availability of grounds for application of compulsory measures of medical matter: conduct interrogations, examinations, announce the documents, listen to the experts and perform other actions necessary for **attainment (achievement)** of truth.

Upon the end of trial the court shall move on to debates of the sides. The procurator, victim, civil plaintiff, civil respondent and their representatives shall participate in the debates. The defense counsel shall be the last to speak at the debates. The defense counsel shall also be the last to make objections.

After having heard the speeches of the sides, the judge shall leave for a separate room for pronouncement of the ruling.

Article 576. Questions, settled by the court in a separate room.

The following questions shall be settled by court in a separate room:

- 1) whether a crime or publicly injurious deed of person of diminished responsibility have taken place;
- 2) whether this crime or publicly injurious deed is committed by person who is the subject of case consideration;
- 3) whether this person has mental illness at this time;

- 4) whether application of compulsory measure of medical matter and of what kind is necessary for the person, who acquired mental illness after commission of crime or who committed publicly injurious deed under condition of diminished responsibility;
- 5) whether this person requires psychiatric treatment on general grounds.

The court shall also settle the questions, envisaged in **Point (Item / Paragraph) 10 - 14** of Part 1 of Article 457 of this Code.

Article 577. Ruling of court.

The ruling of court pronounced at trial on case of crime, committed by person, who later acquired mental illness, or on case of commission of publicly injurious deed under condition of diminished responsibility, shall be compiled in accordance with the following rules.

In the introductory section of ruling the court shall indicate the first, second and last name of person, who is the subject of case consideration, date, month, year and place of birth, place of residence, employer, type of activity, level of education and other personal information, significant for the case.

In the descriptive-motivational section of ruling the court shall indicate the circumstances, being the ground for application or non-application of compulsory measure of medical matter, adduce evidence that proves, questions or refutes the availability of ground for application of this measure. Further, the court shall formulate in the ruling its answers for questions enumerated in Article 576 of this Code.

The resolution section of ruling the court shall state one of the following rulings:

- 1) on admittance of the person of having committed a crime and having acquired mental illness upon that, or of having committed a publicly injurious deed under condition of diminished responsibility, and on application or non-application of compulsory measures of medical matter to this person;
- 2) on case dismissal due to absence of the event of crime or publicly injurious deed that is imputed to the person who is the subject of case consideration;
- 3) on discontinuation of proceedings of case on application of a compulsory measure of medical matter due to non-participation of the person in the committed act, and on return of the case for proceeding of an additional investigation in order to **establish (identify)** the person who has committed the crime;
- 4) on return of the case to the procurator for involvement of this person in the case as a defendant, and on completion of preliminary investigation in general order.

If the crime of the person, who later acquired mental illness, or publicly injurious deed of person under condition of diminished responsibility has caused property harm, the question of its recovery shall be settled in order of civil proceedings.

In case of discontinuation of proceedings of case on application of compulsory measure of medical matter regarding a person with mental disorders and who requires medical treatment on general basis, the case shall immediately notify a local healthcare organ.

Article 578. Repeal or alteration of compulsory measure of medical matter.

The court shall repeal or alter the compulsory measure of medical matter in case of the recovery of person, subject to this measure, or in case of certain change in health condition, when while remaining to be mentally ill the person requires other compulsory measure of medical matter than initially pronounced by court, or does not require measures of such kind.

Article 579. Renewal of proceeding of cases on application of compulsory measure of medical matter.

In case of recovery of person, who is the subject of application of compulsory measure of medical matter due to commission of crime and following acquisition of mental illness, the court shall be obliged to settle the question on renewal of proceeding of case in general order from the stage of acquisition of mental illness.

Article 580. Alteration or repeal of compulsory measure of medical matter and renewal of its proceeding.

The ground for settlement by court the question on repeal or alteration of compulsory measure of medical matter and renewal of proceedings in general order shall be:

- 1) a petition of the administration of medical institution that supports the person subject to compulsory measure, based upon the conclusion of medical commission;
- 2) a presentation of procurator, based upon the conclusion of medical commission;
- 3) a petition of the defense counsel, close relatives, lawful representatives of this person and of other concerned persons, and of social unions and communities.

Question on repeal or alteration of the compulsory measure of medical matter and renewal of proceeding of case in general order shall be considered by court, which has pronounced the ruling on application of compulsory measure of medical matter, or by the local court.

The court shall notify the sides together with the administration of medical institution, persons, heads of social unions and communities, who have lodged a petition, of the appointment of case hearing.

Participation of procurator and defense counsel in the court hearing shall be obligatory.

In case, envisaged in **Point (Item / Paragraph) 3** of Part 1 of this Article, the judge prior to appointment of case for hearing shall request the respective medical institution of a conclusion of medical commission on health condition of this person.

If the received petition or requested conclusion of medical commission raises doubts, the court shall be entitled to appoint forensic-psychiatric expertise, to request additional documents, interrogate the person, who is the subject of the lodged petition, interrogate the victim, witnesses, and to conduct other necessary activities.

The examining of evidence in court hearing shall be conducted in accordance with the rules, envisaged in Articles 439 - 448 of this Code.

Upon completion of examining the evidence the court shall hear the debates of the sides, which consist of speeches of the procurator and defense counsel.

The court shall pronounce a ruling on repeal, alteration or on rejection of repeal or alteration of the compulsory measure of medical matter, that is announced at the court hearing.

In case of refusal to repeal or alter the compulsory measure of medical matter, repeated petition may be received for consideration not earlier than six months after the pronouncement of ruling on refusal.

#### Article 581. Lodging an appeal or protest for ruling of court.

The person who is subject of the pronounced ruling, his defense counsel, the victim and his representative shall be entitled to lodge private petitions, and the procurator to lodge private protest against the ruling of court on suspension or dismissal of proceeding of case on application of compulsory measures of medical matter, on application of these measures, on their repeal or alteration, on renewal of proceeding in general order and on rejection of repeal or alteration of compulsory measures of medical matter, on rejection of renewal of proceeding in general order.

The civil plaintiff, civil respondent shall be entitled to lodge complaints for the ruling of court on question of application of compulsory measure of medical matter in part that is related to the civil suit.

Complaints and protests for rulings, envisaged in this Article shall be considered by the superior court with observation of rules, specified by Articles 505 - 507 of this Code.