

# CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF UZBEKISTAN

## Law of the Republic of Uzbekistan

### On Enactment of the Criminal Procedure Code

#### of the Republic of Uzbekistan

The Supreme Council of the Republic of Uzbekistan **r u l e s**, as follows:

To enact the Criminal Procedure Code of the Republic of Uzbekistan.

**President of the Republic of Uzbekistan I.KARIMOV**

Tashkent, September 22, 1994

No. 2013-XII

## GENERAL PART

### SECTION ONE. BASIC PROVISIONS

#### CHAPTER 1. CRIMINAL PROCEDURE LAW

##### **Article 1. Procedure for Criminal Proceedings**

Procedure for criminal proceedings in the territory of the Republic of Uzbekistan shall be established by the Criminal Procedure Code.

The procedure for criminal proceedings established by this Code shall be binding upon courts, prosecution, investigation and inquiry agencies, and bar as well as upon other persons.

##### **Article 2. Objectives of Criminal Procedure Law**

The objectives of the criminal procedure law shall be speedy and complete crime detection, finding of guilty persons, and securing proper law enforcement in order to impose a person, who committed a crime, to a fair punishment, and to secure an innocent person from being brought to responsibility and convicted.

The procedure for criminal proceedings established by the criminal procedure law shall promote enhancement of the rule of law, crime prevention, protection of the interests of individual, state and society.

##### **Article 3. Application of Criminal Procedure Law in Time and Space**

Criminal proceedings shall be conducted in accordance with the law in effect at the moment of the inquiry, pretrial investigation and trial, regardless of the place of the commission of an offense, unless otherwise stipulated by an international treaty to which the Republic of Uzbekistan is a party.

##### **Article 4. Application of Criminal Procedure Law to Foreign Nationals and Stateless Persons**

Proceedings on crimes committed by foreign nationals or stateless persons on the territory of the Republic of Uzbekistan shall be conducted in accordance with this Code.

With regard to persons enjoying immunity, this Code shall be applied to the extent not violating international treaties to which the Republic of Uzbekistan is a party.

##### **Article 5. Procedure of Communication of Courts, Prosecutors, Investigators with Respective Foreign Agencies**

Communication of courts, prosecutors, and investigators with the respective agencies of foreign States on requests of the extradition or other criminal procedures shall be conducted in accordance with the law of the Republic of Uzbekistan, and the treaties and agreements between the Republic of Uzbekistan and other States.

##### **Article 6. Granting Request of Foreign Agencies for Criminal Procedure**

The courts and investigating agencies of the Republic of Uzbekistan shall grant the requests of foreign agencies for conducting judicial or investigating procedures, such as interrogation of a witness, accused, forensic examiner, and other persons, as well as view, examination, search, seizure, and transfer of physical evidence, preparation and sending of documents and others. Request of the foreign agencies sent directly to the court or investigating agencies shall be granted only upon the approval of the Ministry of Justice of the Republic of Uzbekistan or the Prosecutor's Office of the Republic of Uzbekistan respectively. Requests of foreign agencies on the territory of the Republic of Uzbekistan shall be granted in accordance with Article 3 of this Code.

In case of impossibility to grant a request of a foreign agency, it shall be sent back to the requesting agency via the Ministry of Justice of the Republic of Uzbekistan or the Prosecutor's Office of the Republic of Uzbekistan attached with attachment specifying reasons for non-granting.

The Supreme Court of the Republic of Uzbekistan shall enjoy a direct communication with relevant foreign agencies on the above matters.

##### **Article 7. Request to Initiate Criminal Case**

Request of a foreign agency to institute of criminal proceedings against a national of the Republic of Uzbekistan, who has committed a crime on the territory of another State and returned to the Republic of Uzbekistan, shall be considered by the Prosecutor's Office of the Republic of Uzbekistan, which shall examine the admissibility of the request. The results of the consideration shall be communicated to the requesting agency. If the requested person has been prosecuted, the notice of conviction with the certified copy of the sentence shall be sent to the requesting foreign agency.

If a foreign national has committed a crime on the territory of the Republic of Uzbekistan and then left it, evidentiary materials collected thereof by inquiry and investigation agencies shall be submitted to the Prosecutor's Office of the Republic of Uzbekistan, which may send a request to institute proceedings against that person to the appropriate agencies of a foreign state.

#### **Article 8. Request to a Foreign State for Extradition**

If a criminal case is instituted, or conviction is sustained towards a person who has committed a crime on the territory of the Republic of Uzbekistan, the Prosecutor's Office of the Republic of Uzbekistan, in accordance with the relevant international treaties and agreements, shall make a request to extradite the person in question to the appropriate agencies of a foreign State.

A request of extradition shall contain:

1. Last name, first name, patronymics, date of birth, nationality, physical description, and photograph of the person accused or convicted;
2. Description of the circumstances of the crime committed along with the text of the law that provides for liability for such crime, and an indication of punishment that can be imposed;
3. Information on venue and time of rendering the sentence as well as on its legal effect.

A request to extradite a person shall be attached with a copy of the sentence or the resolution on recognizing a person as an accused in the criminal case.

#### **Article 9. Limits of Liability of Extradited Person**

A person extradited to the Republic of Uzbekistan by a foreign state may not be prosecuted as a defendant, subjected to a penalty, or extradited to a third State for the crime committed before the extradition and for which the person was not extradited, without the consent of the extraditing State.

#### **Article 10. Denial of Extradition to Another State**

Extradition shall not be permitted if:

1. the person, with respect to whom the extradition request has been entered, is a national of the Republic of Uzbekistan, unless otherwise provided by the international treaties and agreements between the Republic of Uzbekistan and the other States;
2. the crime in question has been committed on the territory of the Republic of Uzbekistan;
3. for the same crime a sentence has been rendered and taken legal effect, or the criminal proceedings have been discontinued in respect to the person, who is requested to be extradited;
4. according to the laws of the Republic of Uzbekistan, a criminal case may not be initiated nor a sentence may not be executed due to the expiration of the statutory time limit or on any other legal ground;
5. the act underlying the extradition request is not recognized as a criminal offense under the law of the Republic of Uzbekistan;

### **CHAPTER 2. PRINCIPLES OF CRIMINAL PROCEEDINGS**

#### **Article 11. Legality**

A judge, prosecutor, investigator, inquiry officer, defense counsel, and other persons participating in criminal proceedings shall strictly observe and enforce the provisions of the Constitution of the Republic of Uzbekistan, this Code, and other laws of the Republic of Uzbekistan.

Any departure from strict observance and enforcement of the laws, regardless of the reasons thereof, shall be considered as a violation of the criminal proceedings and entails liability.

#### **Article 12. Administration of Justice Only by Court**

In accordance with the Constitution of the Republic of Uzbekistan, only court shall administer criminal justice.

#### **Article 13. Multiple-Member and Single-Judge Examination of Criminal Cases**

Criminal cases shall be examined by a multiple-member court, except those envisaged by Paragraphs 2 and 3 of Article 15 of the Criminal Code, which shall be examined with single-judge proceeding.

The multiple-member examination at court of first instance shall be conducted by a judge and two people's assessors. The Supreme Court of the Republic of Uzbekistan shall examine cases at the court of first instance by three judges.

At trial, the people's assessors shall be entitled to all judicial powers. They enjoy equal resolution power with the chief judge at the hearing and adjudication.

The trial at courts of appeal, review, and supervision shall be conducted by three judges. The petitions for review and appeal on the judgments of the Supreme Court of the Republic of Uzbekistan shall be examined by the respective chambers of the Supreme Court of the Republic of Uzbekistan by five judges. *(As amended by Law of 14.12.2000).*

The Presidium of the court shall hear cases when a simple majority of its members is available.

The Plenum of the Supreme Court of the Republic of Uzbekistan shall hear cases when a two-thirds majority of its members is available.

#### **Article 14. Independence of Judges and Their Accountability to Law Only**

Judges and people's assessors shall be independent and accountable to the law only. Judges and people's assessors shall examine and adjudicate criminal cases under the rule of law.

Any intervention into obligations of judges and people's assessors shall be prohibited and entail liability.

#### **Article 15. Mandatory Initiation of Criminal Case**

Upon discovery of elements of a crime and within their competence, a court, prosecutor, investigator and inquiry officer shall be obliged to initiate a criminal case and take all necessary legal measures to establish of the event and actors of a crime and to punish guilty.

#### **Article 16. Administration of Justice on Basis of Equality before the Law and Court**

Criminal justice shall be administered on the basis of equality of individuals before the law and the court, notwithstanding their age, race, ethnicity, language, religion, social origin, belief, and personal and social status.

#### **Article 17. Respect for Honor and Dignity of Individual**

A judge, prosecutor, investigator, and inquiry officer shall respect honor and dignity of individuals participating in case.

Nobody may be subject to violence, torture, or other cruel or degrading treatment.

Acts or decisions, which degrade dignity, violate privacy, endanger health, and cause unjustified physical or moral suffering, shall be strictly prohibited.

#### **Article 18. Protection of Human Rights and Freedoms**

All state agencies and officials conducting criminal proceedings shall protect rights and freedoms of the persons participating therein.

No one may be taken into custody except under a court decision or a warrant of a prosecutor.

A court and prosecutor shall release immediately a person, who has been illegally apprehended or deprived of his liberty, or held in custody longer than envisaged by the law or the court's sentence.

Personal privacy, inviolability of dwellings, confidentiality of correspondence, telephone and other conversations, postal, telegraph, and other communications, shall be protected by law.

Search, seizure, view of dwelling or other premises and territories, which belong to a person, as well as impounding postal or telegraph communications or seizure thereof at a communication office, wiretapping of phones or other communications may be conducted pursuant to the procedure established by this Code only.

Damage caused to a person by interference with his rights and freedoms during criminal proceedings shall be compensated in accordance with the procedure established by this Code.

#### **Article 19. Public Hearing on Criminal Case**

A hearing on criminal case shall be public, except for the instances inconsistent with the reasons of protection of state secrets, or connected with hearing on sexual crimes.

*In camera* hearing shall be permitted on juvenile crimes, as well as on other cases, when it is required to prevent disclosure of private or degrading information, and to ensure security of a victim, witness or other party in the case, as well as their family members or immediate relatives.

Private postal and telephone correspondence can be disclosed during the open court hearing only upon the consent of the sender and receiver. Otherwise they shall be disclosed and examined in the *in camera* hearing.

*In camera* hearing shall be conducted with observance of all procedural rules. A court may render a finding may on *in camera* hearings for the entire case or a part thereof. The finding shall concern the general public only and not be applied to the participants of the proceedings.

A court may allow immediate relatives of a defendant and victim, as well as other persons concerned, to attend *in camera* sessions, after warning them of the liability for disclosure of the circumstances revealed therein.

The court may prohibit certain persons to attend a public court hearing for keeping order in the courtroom.

Audio, photo, and video recording in the courtroom shall be allowed by the presiding judge only.

Sentences, findings, and rulings of a court shall be read out publicly, both in public and *in camera* hearings.

For enhancing publicity in administration of justice, the court may, if needed, notify mass media, public organization and groups concerned on hearings to be conducted, as well as conduct the hearings at the premises of enterprises, institutions, and organizations.

#### **Article 20. Language of Criminal Proceedings**

Criminal proceedings shall be conducted in the Uzbek or Karakalpak languages, or in the language of majority of the population of the respective area.

Participants in criminal proceedings, who do not have command of the language of the proceedings in the criminal case or whose command of the language is not adequate, may make statements, give explanations and testimony, file motions and complaints, and speak in court in their native language or another language of which they have command. In such cases, as well as to get familiarized with the criminal case file, the participants of the proceedings shall be secured with the assistance of an interpreter/translator in accordance with the procedure set by the law.

Documents of pretrial investigation and court hearing to be delivered to the accused, defendant or other participants of the proceedings, shall be translated into the native language of the participant concerned or into a language he has command of.

#### **Article 21. Participation of Public in Criminal Proceedings**

During criminal investigation and trial, an inquiry officer, investigator, prosecutor, and court may, within their jurisdiction, use assistance of the public to establish circumstances of an offense, search and catch an offender, make a fair judgment, as well as to identify the causes and conditions of the crime.

Representatives of public organizations and groups may participate in criminal proceedings as public accusers and public defenders.

#### **Article 22. Establishment of Issue**

An inquiry officer, investigator, prosecutor, and court shall establish the event of crime, the offender, as well as all other relevant issues.

Only the information discovered, checked, and evaluated in accordance with the procedure envisaged by this Code may be used for the establishment of the issue. Obtaining statements from a suspect, accused, defendant, victim, witness, and other participants of the proceedings by means of violence, threats, violation of their rights, and other illegal treatment shall be prohibited.

All circumstances subject to proof shall undergo thorough, comprehensive, full, and impartial examination. During investigation and trial, all issues shall be resolved by establishment and consideration of all the circumstances, both incriminating and justifying, as well as mitigating and aggravating.

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

A suspect, accused, or defendant shall be presumed innocent until proved guilty of a crime in accordance with the procedure envisaged by law and ascertained by a court sentence that has taken legal effect.

It shall not be the obligation of a suspect, accused, or defendant to prove his innocence.

All doubts about the guilt, if possibilities to remove them have been exhausted, shall be resolved in favor of the suspect, accused, or defendant. All doubts arising in the course of law enforcement shall be resolved in favor of a suspect, accused, or defendant as well.

#### **Article 24. Securing Right of Suspect, Accused, or Defendant to Defense**

A suspect, accused, and defendant shall have the right to defense.

It shall be the obligation of an inquiry officer, investigator, prosecutor, court to secure a suspect, accused, and defendant the right to defense by expounding him this right and taking 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 Proceeding at Court**

Proceedings in court of first instance and in higher courts shall be conducted on the basis of parties' adversarial setting.

A prosecution, defense, and adjudication shall be separated from one another during proceedings, and may not be assigned to the same agency or official.

Proceedings in court of first instance shall be started only upon submission of an indictment or resolution on referring a case to the court for applying compulsory medical measures.

State and public accusers, defendant, legal representative of a juvenile defendant, defense counsel, public defender, as well as a victim, civic plaintiff, civic defendant, and representatives thereof, shall participate in proceedings as parties and enjoy equal rights to produce evidences, participate in their examination, file motions, express their opinion on any matter being significant for the correct resolution.

A court shall not act for the prosecution or the defense, and shall not represent their interests. *(As amended by the Law of 14.12.2000).*

The court, being objective and impartial, shall provide necessary conditions to the parties to perform their procedural obligations and enjoy their rights. *(As amended by the Law of 14.12.2000)*

#### **Article 26. Direct and Oral Examination of Evidences**

When conducting criminal proceedings, an inquiry officer, investigator, prosecutor, and court shall directly examine the evidences by: questioning suspects, accused, defendants, victims, and witnesses; hearing expert opinions; view of physical evidence; reading out official records and other documents. This rule may be exempted only in special cases envisaged by this Code.

A court shall adjudicate only on the basis of the evidences examined during a court session.

#### **Article 27. Right to Bring Complaint against Procedural Actions and Decisions**

Participants of the proceedings and other persons, as well as representatives of the enterprises, institutions, and organizations interested in the proceedings, shall have the right to complain against the procedural actions or decisions of an inquiry officer, investigator, prosecutor, judge, and court, in accordance with this Code.

The convicted or acquitted person, his defense counsel, legal representative, as well as the victim, civic plaintiff, civic defendant, legal representatives thereof, have a right to complain, and the prosecutor have a right to file a protest, on the ruling (or finding) of the court of first instance to courts of appeal or cassation. *(As amended by the Law of 14.12.2000).*

Filing motions and complaints shall be allowed at any stage of the procedure. *(As amended by the Law of 14.12.2000).*

## **SECTION TWO. PARTICIPANTS IN CRIMINAL PROCEEDINGS**

### **CHAPTER 3. STATE AGENCIES AND OFFICIALS RESPONSIBLE FOR CONDUCTING CRIMINAL PROCEEDINGS**

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

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 for Criminal Justice, the regional, Tashkent city and district (city) court on criminal cases, and military courts.

A court of first instance may render sentence and finding on a criminal case. The court of cassation shall examine criminal cases pursuant to complaints or protests against sentences or findings by courts of first instance that have not taken legal effect, and render findings. The court of supervision shall examine cases pursuant to protests against the sentences and findings that have taken legal effect, and render resolutions or findings. *(As amended by the Law of 14.12.2000).*

#### **Article 29. Powers of Court**

A court shall be empowered: to prepare a case for trial hearing; to examine the case and render sentence or another finding; to consider the case at the court of appeal, or cassation, or supervision; to request enforcement of the sentence. *(As amended by the Law of 14.12.2000).*

In addition to the aforementioned, higher courts, within their competence, shall supervise lower courts.

#### **Article 30. Judge and People's Assessors**

The criminal procedure shall be conducted by the judge and people's assessors appointed or elected to the composition of the court.

#### **Article 31. Powers of Judge**

A judge acting in one-judge proceeding or in multiple-member court shall have power envisaged by Article 29 of this Code. Besides, the judge shall participate in preparation of the case for the trial, preside at the court session, and have other rights and duties envisaged by this Code.

#### **Article 32. Secretary of Court Session**

A secretary of court session shall be authorized by the presiding judge to file the case for the court session; to notify the participants about the time and venue thereof; to check the appearance of the participants in the court; to ascertain the reasons for the absence and report to the court thereof; to keep the records; to fulfill other requests of the presiding judge on the preparation and conduct of the court hearing.

A secretary is obliged to enter, thoroughly and properly, in the official record the actions and findings of the court, as well as the actions, statements, motions, testimonies of the participants.

#### **Article 33. Prosecutor**

The General Prosecutor of the Republic of Uzbekistan and the lower prosecutors shall conduct the oversight of the precise and uniform enforcement of the laws of the Republic of Uzbekistan during inquiry and pretrial investigation.

During inquiry and pretrial investigation, a prosecutor shall timely rectify violations of law, notwithstanding the personality causing these violations.

A prosecutor shall perform his powers independently from any agencies and officials, being accountable to the law only and instructed by the General Prosecutor of the Republic of Uzbekistan.

#### **Article 34. Powers of Prosecutor**

A prosecutor, during inquiry and pretrial investigation, shall be authorized with powers envisaged by Articles 243, 382-388, 558 of this Code.

During court proceedings, the prosecutor shall have powers as envisaged by Article 409 of this Code.

#### **Article 35. Investigator**

Pretrial criminal investigation shall be conducted by investigators of prosecutor's office, internal affairs agencies, and national security service.

#### **Article 36. Powers of the investigator**

An investigator shall be empowered to: initiate and discontinue the criminal case, or refuse its initiation; detain and interrogate a suspect; conduct investigation prescribed by this Code; prosecute a person as an accused and impose to him measures of restraint; give written orders to the inquiry agencies on detection and investigative actions on the case under his jurisdiction; require assistance from the inquiry agencies in conducting certain investigative actions.

The investigator shall render all resolutions concerning the course and conduct of the investigation independently, except when the sanction of the prosecutor is envisaged by law.

The investigator shall be entitled to present a case to a higher prosecutor with a written statement of his objections in the instance of a disagreement with the prosecutor's decisions or instructions concerning prosecuting a person as a defendant, classification of the offense, and a scope of a charge, the imposition of detention as a measure of restraint, forwarding a case to court or the dismissal of a case, or remanding criminal cases with instructions to conduct additional investigation. A higher prosecutor shall either overturn the orders of a lower prosecutor or refer the case to another investigator. *(As amended by the Law of 29.08.2001).*

Written orders and resolutions of the investigator issued in accordance with the law on the cases under his jurisdiction shall be legally binding for all enterprises, institutions and organizations, officials, and individuals.

### **Article 37. Powers of Head of Investigation Department, Division, Section, Group, and of His Deputy**

A head of investigation department, division, section, group, and his deputy shall supervise the timely conduct of clearance and prevention of crimes by subordinate investigators, and secure thoroughness and impartiality of pretrial investigation.

The head of the investigation department, division, section, group, and his deputy are empowered: to review case files, to instruct the investigator on pretrial investigation, prosecution of a person as a defendant, classification of the crime and a scope of a charge, course of the investigation and on certain investigative actions; to transfer the case from one investigator to another; to assign the case to one investigator or a group thereof; to participate in the pretrial investigation and to conduct it in person bearing the competence of the investigator.

Instructions of the head of the investigation department, division, section, group, and of his deputy regarding a criminal case shall be issued in writing and be binding.

Filing a complaint against such instructions with the prosecutor shall not suspend execution thereof, except in the cases provided by paragraph 3 of Article 36 of this Code.

### **Article 38. Inquiry agencies**

The inquiry agencies shall be:

1. *Militia* (police);
2. Commanders of military units and formations, heads of military institutions and educational establishments – on cases involving crimes committed by their subordinate servicemen, as well as by reservists undergoing military trainings; on cases involving crimes committed by the personnel of the Military Forces of the Republic of Uzbekistan during execution of their official functions or on the territory of the unit, formation, institution or educational establishment;
3. National security service – on cases under their legal jurisdiction;
4. Heads of the punishment enforcement system under the Ministry of Internal Affairs of the Republic of Uzbekistan, heads of the penitentiary facilities, convict colonies, of the correction colonies, investigative isolation wards and prisons – on case involving crimes against the order of service committed by the personnel of these institutions, as well as on case involving other crimes committed on the territory of these institutions. *(As amended by the Law of 27.12.1996)*
5. Fire security agencies – 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 sea-going vessels during long trips;
8. Customs agencies, Tax and Currency Exchange Crime Control Department under the General Prosecutor's Office of the Republic of Uzbekistan and its local branches – on cases involving violation of tax, customs and currency exchange laws respectively. *(As amended by the Law of 29.08.2001 and the Law of 25.04.2003).*

### **Article 39. Powers of Head of Inquiry Agency and of Inquiry Officer**

Heads of each inquiry agency specified in Article 38 of this Code, shall have a right to initiate criminal case, assume the proceedings, and undertake inquiry, or refer the case to a subordinate inquiry officer, or refuse the initiation thereof, or transfer the notification on investigative jurisdiction.

The inquiry officer, upon the charge and under the supervision of the head of the inquiry agency, shall conduct urgent investigative action to meet the objectives provided by Article 339 of this Code.

The inquiry officer shall fulfill commissions of the investigator on conducting special investigative and detective actions on the case under his conduct, and assist the investigator in the course of investigation.

The inquiry officer, when conducting inquiry or fulfilling commissions of the investigator, shall conduct investigative actions and render resolutions in accordance with the rules of the pretrial investigation. These rules shall be binding for the head of the inquiry agency acting as an inquiry officer.

Resolutions of the inquiry officer shall be approved by the head of inquiry agency. The written instructions of the head of the inquiry agency are binding for the inquiry officer, who is entitled to challenge them to the prosecutor shall be entitled to bring complaint against them with the prosecutor not suspending their execution.

The written instructions given by a prosecutor shall be binding upon the head of the inquiry agency and inquiry officer. In case of disagreement, the head of inquiry agency or the inquiry officer shall be entitled to bring complaint against the prosecutor's instructions with a higher prosecutor without suspending their execution.

## **CHAPTER 4. PUBLIC ORGANIZATIONS, COLLECTIVES\*, AND THEIR REPRESENTATIVES PARTICIPATING IN CRIMINAL PROCEEDINGS**

### **Article 40. Statements and Motions of Public Organizations and Communities to be Taken to Consideration at the Criminal**

## **Proceedings**

Public organizations and collectives, their boards and representatives may communicate an inquiry agency, investigator, prosecutor, and court on a crime committed or being prepared. They have a right to file a motion on, as follows: enforcement of surety of a public organization or collective as a measure of restraint for an accused or defendant; parole of a convicted, or on mitigation of punishment; alteration of the conditions of custodial control; exculpation, and other issues prescribed by this Code.

### **Article 41. Notification of Organizations and Collectives on Crime**

In case of serious and especially serious crimes, an inquiry officer and investigator in charge shall notify an employer, educational establishment, or neighborhood community of a person on prosecution him as a defendant, whereas the court shall inform them about time and venue of the court hearing.

### **Article 42. Public Accusers and Public Defenders**

Public organizations and communities may assign their representatives to participate in the court hearing as public accusers or public defenders.

Public accusers and defenders shall be elected by assembly of members of public association or employees of the enterprise, institution, and organization. The decision of the assembly shall be filed to the court.

Public organization and community may withdraw, at any moment, the assigned public accuser or defender, or replace him with another representative thereof.

### **Article 43. Rights and Obligations of Public Accuser**

At the court hearing, a public accuser shall be entitled to: review the case files, introduce evidence and participate in its examination, file motions, and present the case on the proof of the accusation. The public accuser has a right to drop an accusation.

Public accuser shall be obliged to: attend the court hearing, present the opinion of the public organization or community, and assist in establishment of the issue.

### **Article 44. Rights and Obligations of Public Defender**

At the court hearing, a public defender shall be entitled to: review case files, introduce evidence and participate in examination thereof, file motions, and present a case on the circumstances justifying the defendant or mitigating his liability.

Public defender shall be obliged to: attend the court hearing, present an opinion of the public organization or collective to a court and contribute in establishment of circumstances granting relief to the defendant.

## **CHAPTER 5. PARTIES TO CRIMINAL PROCEEDINGS. DEFENSE COUNSELS AND REPRESENTATIVES**

### **Article 45. Accused**

A person shall be recognized as an accused if in his regard, in the order envisaged by this Code, a ruling has been rendered to prosecute him as an accused.

An accused whose criminal case has been set for a trial shall be referred to as a defendant, whereas after the sentence he shall be referred to as a convicted or an acquitted person.

### **Article 46. Rights and Obligations of Accused**

An accused shall have the right: to be informed of charges against him; to give testimony and provide explanations about the charge brought against him or on other circumstances of the case; to use his native language or to use the assistance of an interpreter/translator; to use assistance of a defense counsel and to have meetings with him in private; to enjoy the right to defend himself independently; to file motions and challenges; to introduce evidences; to participate, with the permission of the inquiry officer or investigator, in investigative actions; to get familiarized, upon completion of the pretrial investigation, with the whole criminal case file and to write out required information; to raise objections to dismissal of the criminal case by the investigator or the prosecutor, and demand court hearing; to participate in the hearings at courts of reconciliation, of first instance, and of appeal, and, with the discretion of the court, in the courts of review and of supervision; to bring complaints against actions and decisions of the inquiry officer, investigator, prosecutor, or the court; to get familiarized with the official records of the court session and to submit comments on them; to be informed of any protests, appeals, and cassation complaints on the case, and challenge them. The accused shall have a right to the last plea. *(As amended by the Law of 14.12.2000 and by the Law of 29.08.2001).*

An accused shall be obliged: to appear upon summons of an inquiry officer, investigator, prosecutor and court; not to evade from participation at the pretrial investigation and court hearing; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to abide and satisfy the enforced restraint; not to impede enforcement of the resolutions of the inquiry officer, investigator, prosecutor, and of the findings of the court on examination, obtaining samples for the expert examination, hospitalization for forensic medical examination, and the other procedural rulings envisaged by this Code; to obey to the order during the investigation of the case and the court hearing.

An accused may be imposed to give testimony, as well as to prove his innocence or other circumstance of the case.

### **Article 47. Suspect**

A person shall be recognized a suspect if the evidences that he has committed a crime are not sufficient for prosecution him as a defendant. An inquiry officer, investigator or the prosecutor shall issue a resolution on prosecution the person as a suspect.

## **Article 48. Rights and Obligations of Suspect**

A suspect shall have the right: to be informed what he is suspected of; to demand to be questioned no later than twenty four hours from the moment of the apprehension; to give testimony regarding the suspicion against him or other circumstances of the case; to use his native language or to use the assistance of an interpreter/translator; to have assistance of a defense counsel from the moment of declaring him the resolution on prosecution him as a suspect, or after the apprehension; to have meeting with the counsel confidentially; to enjoy the right to defend independently; to file motions and challenges; to participate in the hearings in court of reconciliation; to bring complaints against actions and decisions of the inquiry officer, investigator, prosecutor, or court. *(As amended by the Law of 15.04.1999 and of 29.08.2001).*

A suspect shall be obliged: to appear upon the summons of the inquiry officer, investigator, prosecutor, and court; not to evade from participation in pretrial investigation and court hearing; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses, and by other illegal acts; not to impede enforcement of the resolution of the inquiry officer, investigator, and prosecutor on examination, obtaining samples for expert examination, hospitalization for forensic medical examination, and the other rulings envisaged by this Code; to obey the order during investigation of the case.

A suspect cannot be imposed to give testimony, as well as to prove his non-implication or any other circumstance of the case.

## **Article 49. Defense Counsel**

A defense counsel shall be a person entitled, in the order envisaged by law, to provide defense of the rights and legitimate interests of a suspect, accused, or defendant, and render legal assistance to them.

The following persons may assist as defense counsels: lawyers, or persons duly authorized to assist as the defense counsels, or representatives of public associations in cases involving their members. Immediate relatives or legal representatives of the suspect, accused, or defendant, as well as other persons concerned may counsel for the defendant with an approval of the investigator or a finding of the court. *(As amended by the Law of 30.08.1997)*

Defense counsel may participate in the case from the moment of apprehension of the individual, or announcement of the recognition him as a suspect, or detention. *(As amended by Law of 15.04.1999).*

## **Article 50. Engagement of Defense Counsel**

A defense counsel shall be retained by a suspect, accused, or defendant, his legal representative and by other persons upon the instructions of or subject to the consent of a suspect, accused, or defendant.

At a request from a suspect, accused, or defendant, the participation of a defense counsel shall be secured by the inquiry officer, investigator, prosecutor, or court.

If a defense counsel retained fails to appear within twenty-four hours, the inquiry officer, investigator, public accuser, or the court shall suggest that the suspect, accused, defendant, or their relatives retain another defense counsel, or shall address a bar chamber, board, or law firm with the request to appoint a defense counsel. A defense counsel retained by a suspect, accused, or defendant may be admitted at any time. *(As amended by the Law of 30.08.1997).*

An inquiry officer, investigator, prosecutor, or the court may relieve a suspect, accused, or defendant, partly or fully, from expenses for defense. In this event, the expenses for the defense counsel are covered by the State in the procedure established by the Cabinet of Ministers.

## **Article 51. Mandatory Participation Of Defense Counsel**

participation of a defense counsel in criminal proceedings shall be mandatory, if the cases engage, as follows:

- (1) juveniles;
- (2) dumb, deaf, blind, or persons having other mental or physical defects and therefore incapable to exercise his right to defense on his own;
- (3) persons having no command of the language in which the proceedings are conducted;
- (4) persons suspected or accused in the capital crime;
- (5) persons, who have contradicting interests, if one of them is being assisted by a defense counsel;
- (6) participation of a state or public accuser;
- (7) participation of a lawyer as a representative of a victim;
- (8) compulsory medical measures.

An inquiry officer, investigator, prosecutor, or court may recognize engagement of defense counsel as mandatory in the cases not specified above, if complexity of the case or other circumstances may impede the right of the suspect, accused or defendant to defense.

When, in the cases envisaged by the this Article, a defense counsel has not been retained by the suspect, accused or defendant, or with their request or their consent by other persons, the head a bar chamber, board, or law firm shall, upon the requirement of the inquiry officer, investigator, prosecutor, or the court, shall appoint the defense counsel to participate in the inquiry, pretrial investigation or in the court hearing of the case. *(As amended by the Law of 30.08.1997).*

## **Article 52. Waiver of defense counsel**

A suspect or defendant may waive a defense counsel at any moment of proceedings in the criminal case. Such waiver shall be permitted only upon the initiative of the suspect, defendant or accused and only in case of factual availability of the defense counsel provided, through the invitation of a lawyer, by the inquiry officer, investigator, or the court. The waiver shall be entered into special record signed by the suspect, defendant or accused, as well as by the lawyer, inquiry officer, or investigator, or shall be entered into the record of trial.

A waiver of defense counsel shall not be binding upon the inquiry officer, investigator, prosecutor, or court in the instances envisaged by Article 51, paragraph 1 subparagraphs 1, 4 and 8, of this Code.

A waiver of defense counsel shall not deprive the suspect or defendant of the right to file a motion later to admit a defense counsel to participate in the proceedings in the criminal case. Such a motion shall be satisfied mandatory. The motion for assistance of defense counsel filed during the court hearing shall be decided by the court by consideration of the circumstances of the case and requirement to ensure the right to defense. Admission of a defense counsel shall not cause repetition of the court hearing.

### **Article 53. Rights and Obligations of Defense Counsel**

A defense counsel shall have the right: to be informed of charge against the defendant; to obtain a written admittance to participate in the case from the inquiry, pretrial investigation agencies and the court; to participate in the questioning of the suspect, to be present during announcement of charges against him and to participate in the interrogations of the defendant, as well as in other investigative actions involving the accused or defendant, and to question the suspect, defendant, witnesses, experts, specialists; to participate, upon the permission of the inquiry officer or the investigator, in other investigative actions; to submit written comments about the conduct of the investigating action wherein he participated; to file motions and challenges; to introduce evidences; to inquire from the state agencies, self-governing bodies, enterprises, institutions, organizations and public associations the references, character evidences, and other documents required for defense; to get familiarized with the official record of the procedures conducted with participation of the suspect or the defendant, and, upon completion of the inquiry or the pretrial investigation, to get familiarized with the whole criminal case file and write out required information thereof; to get familiarized, under the legally established procedure, with the state, commercial and other secrets, if it is required for defense; to participate as a party in the court hearing; to bring complaints against actions and decisions of the inquiry officer, investigator, prosecutor, or court; to get familiarized with the official records of court session and to submit comments thereon; to be informed of any protests and complaints on the case, and challenge them; to participate in the hearings at courts of first instance, of appeal, review, and cassation. *(As amended by the Law of 15.04.1999 and the Law of 14.12.2000).*

If an accused or defendant is kept in custody, the defense counsel has a right to meet him confidentially without limitation of number of meetings and duration thereof.

The defense counsel may not disclose information obtained in connection with the defense.

The defense counsel shall be obliged: to use all legal means and instruments for establishment of the circumstances clearing of suspicion or the charges, or mitigating the liability, and to render required legal assistance to the suspect, accused, and defendant; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to obey the order during the investigation and the court hearing.

The lawyer may not, from the moment of retaining or appointing for participation in the case, refuse to fulfill the obligations of the defense counsel.

### **Article 54. Victim**

When there are evidences of a moral, physical or pecuniary damage caused to a person by a crime or by a socially dangerous act committed by an insane, the person shall be recognized as a victim. The decision thereof shall be processed as a finding of the court or a resolution by a prosecutor, investigator, or inquiry officer.

If a victim is a juvenile or a person legally recognized as disable, he shall participate in the case together with his legal representative or be replaced by him.

### **Article 55. Rights and Obligations of the Victim**

The victim shall have a right: to give testimony; to introduce evidence; to file motions and challenges; to use his native language or to use the assistance of an interpreter/translator; to have a representative appearing for his interests; to participate, with the permission of the investigator or inquiry officer, in investigative actions; to get familiarized, upon inquiry or pretrial investigation, with the whole case file and write out required information thereof; to file notification of conciliation and to participate at the conciliation sessions, as well as of the court of the first instance, of appeal, cassation, and supervision; to complain against the procedure or decision of the inquiry officer, investigator, prosecutor, judge, and court; to prosecute in court, in person or through his representative; to get familiarized with the official records of court session and to submit comments on them; to be informed about any protests and complaints on the case, and challenge them. *(As amended by the Law of 14.12.2000 and of 29.08.2001).*

A victim shall be obliged: to appear upon the summons of an inquiry officer, investigator, prosecutor and court; to give true testimony; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to introduce evidence on the request of the inquiry officer, investigator, prosecutor, and the court; to obey the order during the investigation and the court hearing.

If a victim is fails to appear when summoned without a valid excuse, he may be subjected to compulsory appearance in accordance with Articles 261-264 of this Code.

If a victim refuses to testify or gives testimony known to be false, he shall be liable under the law.

In criminal cases of offenses that resulted in the victim's death, the victim's rights and obligations under this Article shall be passed to a victim's immediate relative and other persons recognized by the pretrial investigation agencies or the court as legal representatives of the dead.

### **Article 56. Civil Plaintiff**

When there are evidences of a pecuniary damage caused by a crime, or by a socially dangerous act committed by an insane, to a person, enterprise, institution or agency, they shall be recognized as civil plaintiffs. The decision to recognize an entity, as a civil plaintiff, shall be processed as a finding rendered by a court or a resolution rendered by a prosecutor, investigator, or inquiry officer.

A civil suit in defense of the interests of juveniles and persons recognized legally incapacitated may be filed by their legal representatives or a prosecutor.

#### **Article 57. Rights and Obligations of Civil Plaintiff**

A civil plaintiff has a right: to bring and sustain a civil suit; to introduce evidence; to give explanations on a civil suit; to have a representative appearing for his interests; to file motions and challenges; to request the inquiry officer, investigator, prosecutor, or the court to secure the suit; to get familiarized, upon pretrial investigation, with the whole case file and write out required information thereof; as well as of the court of the first instance, of appeal, cassation, and supervision to participate in the hearings of a court of the first instance, of appeal, cassation, and supervision; to complain against the procedure or decision of the inquiry officer, investigator, prosecutor, judge, and court; to challenge the sentence and the finding of the court in the part relating to the civil suit; to be informed of protests and complaints on the case, and challenge them. *(As amended by the Law of 14.12.2000 and of 29.08.2001).*

A civil plaintiff shall be obliged: to appear upon summons of an inquiry officer, investigator, prosecutor, and court and to introduce, upon their request, the evidence relating to the civil suit; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to obey the order during the investigation and the court hearing.

The person recognized as the civil plaintiff shall be entitled to all rights and obligations of a victim.

#### **Article 58. Civil Respondent**

A person, enterprise, institution, or agency, liable for the damage caused by an accused or by a criminally insane person, may be engaged in proceedings as a civil respondent. an inquiry officer, investigator, or prosecutor shall render a resolution to engage a physical or legal person as a civil respondent, and the court shall render a finding to that effect.

#### **Article 59. Rights and Obligations of Civil Respondent**

A civil plaintiff shall have a right: to know the nature of the charges and the civil suit; to raise objections to the suit; to give explanations on the suit; to have a representative appearing for his interests; to introduce evidence; to file motions and challenges; to get familiarized, upon pretrial investigation, with the whole case file and copy out required information thereof; to participate in the hearings of the court of the first, review, and supervisory instances; to complain against the procedure or decision of the inquiry officer, investigator, prosecutor, and court; to challenge the sentence and the finding of the court in the part relating to the civil suit; to be informed of any protests and complaints on the case, and to object them. *(As amended by the Law of 14.12.2000).*

A civil plaintiff shall be obliged: to appear upon summons of an inquiry officer, investigator, prosecutor, and court, and to introduce, upon their request, the evidence relating to the civil suit; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to obey the order during the investigation and the court hearing.

#### **Article 60. Legal Representatives of Suspect, Accused, Defendant, Victim**

Legal representatives shall participate in the case to protect the rights and the legitimate interests of a suspect, accused, defendant, or victim, if they are juveniles or persons legally recognized as disable.

The following persons may participate in the case as legal representatives: parents, adoptive parents, guardians, or curators of a juvenile suspect, defendant, or victim, representatives of institutions and organizations that have charge of a juvenile or disabled participant of the procedure. Legal 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 together with, or instead of, the represented person.

an inquiry officer, investigator, or prosecutor, shall render a resolution to engage a physical or legal person as a legal representative, and the court shall render a finding to that effect. In case of the contradiction of the interests of the represented person and the legal representative, by the same resolution or finding the lawyer shall be appointed to participate in the case as a defense counsel for the represented person.

#### **Article 61. Rights and Obligations of Representative**

A legal representative shall have a right: to be informed of the summon of the represented person to the inquiry officer, investigator, prosecutor or the court; to participate, upon the consent of the inquiry officer, investigator, prosecutor, or the court, in questioning of this person; to have confidential meetings with the represented person in custody; to enjoy procedural rights of the represented person in accordance with this Code.

A legal representative shall be obliged: to appear upon the summons of the inquiry officer, investigator, prosecutor, and court; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses and by other illegal acts; to obey the order during the investigation and the court hearing.

A legal representative may be questioned as a witness, as well as engaged into the case as the defense counsel, civil plaintiff or civil respondent. In these cases, the legal representative shall have the rights and obligations of the abovementioned participants of the legal proceedings.

#### **Article 62. Representatives of Victim, Civil Plaintiff, Civil Respondent**

The following persons may participate in the case as representatives of the victim, civil plaintiff, and civil respondent: lawyers; persons duly authorized to assist as defense counsels, immediate relatives, and other persons permitted to participate in the case upon the resolution of the inquiry officer, investigator, prosecutor or upon the finding of the court.

A victim, civil plaintiff or civil respondent makes a contract of agency with the representative as a ground for his participation of in the case. The head of the legal entity may participate as its representative without a special authorization. By the head's proxy, the personnel and the lawyers of the legal entity shall be recognized as its representatives.

A representative of the victim, civil plaintiff, or civil defendant shall participate in the case together with or instead of the represented person. The victim, civil plaintiff, and civil respondent may waive the representative at any stage of the proceedings or to choose another representative.

#### **Article 63. Rights and Obligations of Representative**

A representative of a victim, civil plaintiff, civil respondent shall enjoy the procedural rights as, respectively, the victim, civil plaintiff, and civil respondent. The representative may refuse to participate in the legal proceedings at any stage.

A representative shall be obliged: to appear for the rights and legitimate interests of a represented persons; to refrain from any malpractice; to appear upon summons of an inquiry officer, investigator, prosecutor, and court; not to impede establishment of the issue by destruction or forgery of evidences, by persuasion of witnesses, and by other illegal acts; to obey the order during the investigation and the court hearing.

#### **Article 64. Obligation to Expound to Participants of Proceedings their Rights and to Ensure Exercising Thereof**

An inquiry officer, investigator, prosecutor, and judge shall be obliged to expound to a suspect, accused, defendant, civil plaintiff, as well as victim, civil plaintiff, civil respondent, and their representatives their rights, obligations and responsibility and to secure means to exercise those rights. The participants of the legal proceedings shall be explained therewith of their obligations and of the consequences of the default on the obligations.

### **CHAPTER 6. OTHER PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS**

#### **Article 65. Witness**

Any person, who may be aware of any circumstance to be established on the case, may be summoned to testify as a witness.

#### **Article 66. Rights and Obligations of Witness**

The witness shall have a right: to testify in his native language, if he has no or poor command of the language of the interrogation, and to use thereby the assistance of the translator/interpreter; to challenge an interpreter who participates in questioning; to testify in handwriting; to get familiarized with the minutes of evidence and to amend it; to use written notes and documents during the interrogation; to protect his interest through bringing complaints with the resolutions of the inquiry officer, investigator, prosecutor, or the findings of the courts.

The witness shall obliged: to appear when summoned by the inquiry officer, investigator, prosecutor, and the court; to report veraciously everything what he knows on the case; to answer the questions; not to disclose the circumstances of the case without the permit of the interrogator; to obey the order during the investigation and the court hearing.

If a witness fails to appear without a valid excuse, he may be subjected to compulsory appearance as envisaged by Articles 261-264 of this Code.

For giving testimony known to be false or refusing to testify, a witness shall be liable under the law.

#### **Article 67. Forensic Examiner**

A forensic examiner shall be a person possessing special expertise necessary for forensic expert opinion.

A forensic examiner shall be summoned and a forensic examination shall be ordered and conducted in accordance with the procedure set by Articles 172-187 of this Code.

#### **Article 68. Rights and Obligations of Forensic Examiner**

A forensic examiner shall have a right: to get familiarized with the materials of the criminal case pertaining to the matter of the forensic examination and to write out necessary information; to request additional materials needed for giving a forensic expert opinion; to refuse in writing to give a forensic expert opinion on questions that extend beyond the scope of special expertise or if the materials provided to him are insufficient for giving a forensic expert opinion; to participate, with the permission of the inquiry officer, investigator, prosecutor, or court, in the procedural actions and to put questions pertaining to the matter of the forensic examination; to participate in the court hearing on evidences related to the subject of the forensic examination and, upon the permit of the court, to question the persons; to examine physical evidence and documents; to give forensic expert opinions within the scope of his skills including forensic expert opinions on questions that have not been posed in the resolution or ruling to conduct the forensic examination but are relevant to the matter of the forensic expert examination; to provide conclusions and give testimonies in his native language if he has no or poor command of the language of the proceedings, and to be assisted in that case by a translator/interpreter; to bring complaints with actions and decisions of the inquiry, investigator, prosecutor, or the court.

A forensic examiner shall be obliged: to appear when summoned by an inquiry officer, investigator, prosecutor and the court; to file a forensic report; to give forensic testimony and to provide clarification of the forensic report, if necessary; not to disclose the circumstances of the case without the permit of the interrogator; to obey the order during the investigation and the court hearing.

If an examiner fails to appear without a valid excuse, he may be brought to liability envisaged by law.

For refusing or neglecting his duties, as well as for giving a forensic expert opinion known to be false, a forensic examiner shall be brought to liability envisaged by law.

## **Article 69. Expert Witness**

An expert witness shall be summoned to provide assistance to the inquiry officer, investigator, prosecutor, and the court in discovering and securing of evidence by investigation and court proceeding. The following persons may be summoned as expert witnesses: medical professional, educator, and other persons possessing relevant expertise.

An expert witness can be summoned for maintenance of equipment (audio and video recorder, filming etc) during investigation and trial.

A procedure of summons and participation of the expert witness in investigation and trial shall be determined by articles 91, 92, 136-138, 146,147,149,151,156 and 193 of this Code.

## **Article 70. Rights and Obligations of Expert Witness**

An expert witness shall have a right: to be informed of the purpose for his summon; to refuse to participate in the proceedings if he lacks the relevant expertise; to get familiarized with the case file on the proceedings wherein he participated; to make statements and comments on the proceedings wherein he participated; to question the persons participating in investigation and trial, upon the permit of the inquiry officer, investigator, prosecutor and the court; to bring complaints with actions and decisions of an inquiry officer, investigator, prosecutor, or court.

An expert witness shall be obliged: to appear when summoned by an inquiry officer, investigator, prosecutor and the court; to participate in the investigation and trial using the relevant equipment, skills, and expertise for discovering and securing evidence; to draw attention of the inquiry officer, investigator, prosecutor, and the court to the circumstances important for the establishment of the issue; to give explanations on the activity he performs; to assist the inquiry officer, investigator, prosecutor, and the court in the identification of the causes and conditions of the crime, and of remedial measures to be taken; not to disclose the circumstances of the inquiry and pretrial investigation without the permit of the inquiry officer, investigator and prosecutor; to obey the order during the investigation and the court hearing.

## **Article 71. Interpreter/Translator**

An interpreter/translator may be summoned to the court, if:

1. a suspect, accused, defendant or victim, civil plaintiff, civil respondent or representatives thereof, as well as the witness, forensic examiner, or expert witness has no or poor command of the language of the proceedings, or is deaf or dumb;
2. it is required to translate a written text;

The provisions on an interpreter/translators are relevant to a summoned person proficient in signs of the deaf or dumb.

## **Article 72. Rights and Obligations of Translator**

An interpreter/translator shall have the right: to put questions to participants in the criminal proceedings for clarification reasons; to get familiarized with the official record of the investigative action in which he has participated, as well as with the official record of the court session, and to make comments to be entered in the official record; renounce from the participation if he does not possess knowledge required for interpretation/translation; to bring complaints against actions and decisions of the inquiry officer, investigator, prosecutor, or the court.

An interpreter/translator shall be obliged: to appear when summoned by the inquiry officer, investigator, prosecutor, and the court; to interpret/translate fully and accurately; to certify the translation by signing the official record of the investigative action or of the court session in which he participated, as well as the procedural documents delivered to the persons participating in the proceedings and translated into their native language or other language they have command of; not to disclose the circumstances of the pretrial and trial investigation without the permit of the interrogator; to obey the order during the investigation and the court hearing.

For providing interpretation/translation known to be false, an interpreter/translator shall be brought to liability envisaged by law.

## **Article 73. Attesting Witnesses**

An attesting witnesses shall be engaged by an inquiry officer, investigator or prosecutor in the cases envisaged by this Code to attest to the fact of an investigative action or another action, as well as of the course and results thereof.

For participation in the investigative action, at least two adult persons neutral to the outcome of the criminal case shall be engaged as attesting witnesses. Prior to the investigative action, the inquiry officer, investigator, or prosecutor shall expound to the attesting witnesses their rights and obligations.

## **Article 74. Right and Obligations of Attesting Witness**

An attesting witness shall have the rights: to participate in the investigative action; to make remarks and statements on the investigative action to be entered into the record; to get familiarized with the official record of the investigative action, in which he has participated; to bring complaints with actions and decisions of the inquiry, investigator, or prosecutor.

An attesting witness shall be obliged: to appear when summoned by the inquiry officer, investigator, prosecutor; to participate in the investigative action; to certify the fact of an investigative action or another action, as well as the course and results thereof, with his signature in the official record of investigative action; not to disclose the circumstances of the inquiry and pretrial investigation without the permit of the inquiry officer, investigator and prosecutor.

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

An attesting witness may be questioned as a witness about the circumstances related to the investigative action he participated in. In this case, he shall have the rights and obligations envisaged by Article 66 of this Code.

**Article 75. Reimbursement to Victims, their Representatives, Witnesses, Forensic Examiners, Expert Witnesses, Interpreters/Translators, and Attesting Witnesses**

A person summoned as a victim or his representative, witness, forensic examiner, expert witness, interpreter/translator, and attesting witness shall be paid a reimbursement in the amount of his regular salary, which has been lost for the time spent in connection with being summoned to an inquiry agency, investigator, prosecutor, or court. Unemployed persons shall be paid a reimbursement for being diverted from their regular activities. In addition, all the abovementioned persons shall have the right to get reimbursement for the costs related to the appearance in the venue of procedural actions.

A forensic examiner, interpreter and expert witness have the right for remuneration for performing their duties in the course of the proceedings in the criminal case, except when such duties have been performed as an official assignment.

Reimbursement of the expenses shall be performed under the procedure and in the amounts envisaged by the law.

**CHAPTER 7. CIRCUMSTANCES PRECLUDING PARTICIPATION IN CRIMINAL PROCEEDINGS; CHALLENGES**

**Article 76. Circumstances Precluding Participation of Judge, Prosecutor, Investigator, Inquiry Officer, and Secretary**

The judge as well as the civil assessor, prosecutor, investigator, inquiry officer, and secretary of the court may not participate in the criminal proceeding and shall be challenged if:

1. he is participating or has previously participated in the same case as a victim, civil plaintiff, respondent, their legal representative, forensic examiner, expert witness, interpreter/translator, attesting witness, witness, and defense counsel;
2. he is a relative of an official conducting proceedings on the case or other persons listed in the subparagraph 1 of this paragraph;
3. other circumstances raise doubts about his objectivity and impartiality.

The judge may not participate in the trial if he has previously conducted the case as an inquiry officer, investigator, prosecutor, or secretary of the court.

The judge participated in the examination of the case at the court of first instance, the appellate court or the court of review, as well as in the course of supervision may not participate in the examination of the case after vacating of the sentence, finding (ruling) which was given with his participation. *(As amended by the Law of 14.12.2000).*

Previous participation in the case of the inquiry officer, investigator, and secretary of the court shall not be an obstacle for the repeated participation, respectively, in the course of examination, pretrial investigation, and keeping official records in the same case, if the case has been sent for additional investigation or for a new trial.

**Article 77. Circumstances Precluding Participation of Representative of Public Organization, or Community**

A public accuser, public defender, and other representatives of a public organization or a community shall not participate in the proceedings and be challenged under the circumstances envisaged by Article 76 of this Code.

**Article 78. Circumstances Precluding Participation of Forensic Examiner, Expert Witness, Interpreter/Translator, or Attesting Witness**

A forensic examiner, expert witness, interpreter/translator or attesting witness shall not participate in the criminal proceedings and shall be challenged under the circumstances envisaged by Article 76 of this Code, as well as on account of subordination or other dependence from a person participating in the proceedings.

A forensic examiner, expert witness, interpreter/translator shall be challenged if their incompetence has been revealed, whereas attesting witnesses shall be challenged if they are officials of the Internal Affairs, national security, prosecutor's office, justice or court agencies.

A person shall not participate in the proceedings as forensic examiner or expert witness if he has conducted audit or any other visitation caused the initiation of the criminal proceedings.

The person, who has participated in the case as an expert witness, may participate in future in the same case as a forensic examiner as well.

**Article 79. Circumstances Precluding Participation of Defense Counsel, Representative of Victim, Civil Plaintiff or Respondent**

A defense counsel, representative of victim, civil plaintiff, or respondent may not participate in proceedings in a criminal case if:

1. he has previously participated in the case as a judge, people's assessor, prosecutor, investigator, inquiry officer, secretary of the court, examiner, expert witness, interpreter/translator or attesting witness;
2. he is a relative of the judge, prosecutor, investigator, inquiry officer, or secretary of the court session, who has participated or is participating in the proceedings in the criminal case, or of a person whose interests are in conflict with the interests of the participant who has entered in a legal defense agreement with the person;
3. he is an acting judge, prosecutor, investigator, inquiry officer, except he is a legal representative of an incapable person or a representative of the agency of his regular employment, if this agency has identified him as a civil plaintiff or a civil defendant;
4. he is rendering or previously has rendered legal assistance to a person whose interests are in conflict with the interests of the suspect, accused or defendant he is defending, or of the victim, civil plaintiff or civil respondent he is representing.

**Article 80. Filing of and Deciding on Challenge and Self-Disqualification**

Under the circumstances envisaged by Articles 76-79 of this Code, a judge, people's assessor, prosecutor, investigator, inquiry officer, secretary of the court session, interpreter/translator, forensic examiner, expert witness, defense counsel, and representatives of a victim, civil plaintiff, or civil respondent shall be obliged to announce self-disqualification. In the instance they have not withdrawn from the

proceedings, they may be challenged by the suspect, accused, defendant or his legal representative, the defense counsel, as well as by the public accuser, victim, civil plaintiff, civil respondent or their representatives.

A challenge may be filed by a prosecutor, investigator, and inquiry officer during the investigation, or by the court during the trial.

An application on challenge shall be properly grounded.

The challenged person may give his explanations prior to the consideration of the challenge.

A decision on a challenge of a judge shall be made in the absence of the challenged judge by the rest of the judges. The judge shall be considered disqualified by the vote equality. A decision on a challenge of majority of the judges or the entire court shall be made by a majority vote of that court in bank. A decision on a challenge of a judge who is examining a criminal case in a single-judge proceeding shall be made by that judge.

A decision on a challenge of a prosecutor shall be made by a higher prosecutor if the challenge is submitted in the course of pretrial proceedings in a criminal case, or by the court examining the case if the challenge is submitted in the course of trial proceedings.

A decision on a challenge of a representative of a public organization or community shall be made by the court examining the case.

A decision on a challenge of an investigator or inquiry officer shall be made by a prosecutor supervising over the pretrial investigation and inquiry.

A decision on a challenge of a forensic examiner, witness expert, interpreter/translator, defense counsel, and representatives of a victim, civil plaintiff, or civil respondent shall be made by a an inquiry officer and investigator if the challenge is submitted in the course of pretrial proceedings, or by the court examining the case if the challenge is submitted in the course of trial proceedings.

A decision on a challenge of an attesting witness shall be made by an inquiry officer or investigator.

A decision on a challenge filed during the investigation shall be made by an inquiry officer, investigator, and prosecutor within twenty-four hours. A decision on a challenge filed during the court session shall be made immediately within the same session.

Satisfaction or rejection of the challenge shall be stated in a resolution rendered by an inquiry officer, the investigator, and the prosecutor, and in a finding rendered by a court.

### **SECTION THREE. EVIDENCE AND CIRCUMSTANCES SUBJECT TO PROOF**

#### **CHAPTER 8. EVIDENCE**

##### **Article 81. Types of Evidence**

Evidence in a criminal case shall be any facts and data that provides a basis for an inquiry officer, investigator, prosecutor, or court to ascertain, in accordance with the procedure envisaged by law, whether a socially dangerous act took place, as well as the guilt of a person committed thereof, and other circumstances that are of significance for the case exist.

The following shall be admitted as evidence: testimony given by a witness, victim, suspect, accused, defendant; forensic expert opinion; physical evidence; audio and video records, as well as filming and photography; official records of investigative and judicial actions; other documents.

##### **Article 82. Grounds for Accusation and Conviction**

For referring a case to a court with a criminal charge and for giving a criminal sentence, the following shall be subject to proof:

1. an event of the crime; nature and extent of damage caused thereby; circumstances that characterize the personality of a victim;
2. time, place, mode, and other circumstances of the commission of the crime established by the Criminal Code; causal relationship between the offense committed and socially dangerous consequences that emerged;
3. the person's culpability in the commission of a crime;
4. commitment of the crime with direct or indirect intent, or negligence, or criminal presumption; motives and aims of the crime;
5. circumstances that characterize the personality of the defendant.

##### **Article 83. Grounds for rehabilitation**

The suspect, accused, defendant shall be acquitted and rehabilitated if, as follows:

1. the occurrence of offense, on which the case has been brought, the investigation and trial conducted, does not exist;
2. the constituent elements of an offense in the act are not available;
3. he is pure from the crime.

##### **Article 84. Grounds for Discontinuation of The Prosecution without Establishment of Culpability**

A criminal case shall be dismissed without establishment of culpability in commission of the offense pursuant to the following grounds:

1. a statutory deadline of criminal prosecution has expired;
2. as a result of a bill of amnesty;
3. the accused or defendant has died;
4. the same person has been sentenced with the same charge, and the sentence has taken legal effect;
5. availability of a finding (or ruling) rendered by the court which has taken legal effect in relation to the person on the same charge, or a resolution of a duly authorized official to deny initiation or to dismiss criminal case on the same charge;
6. unavailability of the victim's complaint, if criminal case may not be initiated other than pursuant to his complaint, except for instances envisaged by Article 325 of this Code;

7. the person has not reached the age of criminal liability by the moment of committing an act punishable under the criminal law.

When the statute of limitations of criminal prosecution has expired or a bill of amnesty has been issued, 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, defendant or immediate relatives of the dead accused or defendant insist thereon. In such cases, the sentence shall be rendered without appointment of punishment.

The criminal case against the person, who got mentally abnormal upon commission of the crime and has become thereby unable to control and to direct his actions, shall be discontinued without establishment of culpability issue in accordance with Chapter 61 of this Code.

On conciliation between a victim and suspect, accused or defendant prosecuted under the circumstances envisaged by Article 66<sup>1</sup> of the Criminal Code, the criminal case may be discontinued by the court without establishment of culpability issue in accordance with Chapter 62 of this Code. *(As amended by the Law of 29.08.2001).*

The criminal case may be discontinued with consent of the person without establishment of his culpability if, as follows:

1. it is recognized that by the time of investigation or court examination of the case the act ceased to be socially dangerous or, due to a change in conditions, the person ceased to be socially dangerous;
2. a person committed a crime for the first time which does not pose a large social danger or is a juvenile offense, has compensated the damage caused by the crime, actively repented and cooperated in solution of the crime;
3. it is reasonable, taking into account the nature of the act and character of the person committed a juvenile offense for the first time, to send the case file to the commission on juvenile justice

## **CHAPTER 9. GENERAL CONDITION OF PROOF**

### **Article 85. Proof**

Proof shall consist in collection, review, and evaluation of evidence for the purposes of ascertaining circumstances that matter for legal, well-founded, and fair resolution of the case.

### **Article 86. Participants of Proof**

Proof shall be carried out by an inquiry officer, investigator, procurator, and court.

A suspect, accused, defendant, victim, civil plaintiff, civil respondent, and their representatives shall be entitled to participate in proof.

Witnesses, forensic examiners, expert witnesses, interpreters/translators, attesting witnesses as well as other persons and officials, who enjoy the rights and bear obligations for collection, verification and assessment of evidence, as envisaged by this Code, shall be engaged to participate in proof.

### **Article 87. Collection of Evidence**

Collection of evidence shall be carried out through the following pretrial and trial investigative acts: questioning of a suspect, accused, defendant, witness, victim, and forensic examiner; confrontation; identification; verification of testimony at the crime scene; seizure; search; viewing; physical examination; exhumation; experiments; obtaining samples for expert examination; conduct of expertise and visitation; impoundment of objects and documents; wiretapping.

### **Article 88. Protection of Rights and Legal Interests of Individuals, Enterprises, Agencies, and Organizations during Proof**

Protection of rights and legal interests of individuals, enterprises, agencies, and organizations shall be provided during collection, verification, and evaluation of evidence.

Following shall be prohibited:

1. to carry out actions that endanger life or health of the persons or humiliate their honor and dignity;
2. to extract testimonies, explanations, opinions, experiments, as well as issue of documents, or objects by means of violence, threat, fraud, and other illegal acts;
3. to conduct investigative actions during night hours, i.e. from 10 p.m. to 6 a.m, except for the cases when this may be required to prevent a crime being prepared or committed, avert possible loss of evidence, or flee of a suspect, or simulate situation of the investigated event during the experiment.

The inquiry officer, investigator, prosecutor, judge, and other persons, except for doctors, participating in the case as forensic examiners or expert witnesses, may not be present at baring, in connection with investigative or forensic action, of a person of the opposite sex.

An inquiry officer, investigator, prosecutor, and judge shall rigorously prevent disclosure of the information discovered during the pretrial and trial investigation on privacy of a suspect, accused, victim and other persons. For this purpose, the public presentation during the pretrial and trial investigative action, where such information may be discovered, shall be limited, and the attending persons shall be notified on the liability in case of disclosure.

The objects and documents seized during the pre-trial and trial investigative action shall be accurately described in the respective official records, whereas the owner of such documents or objects shall be provided with a copy of the record or abstract therefrom. The irrelevant objects and documents shall be immediately returned to the legitimate owner. The objects and documents that may not be kept by individuals shall be destroyed or transferred to the agencies and organizations entitled to safekeeping thereof.

### **Article 89. Protection of state secrets**

Viewing, seizure, and other actions pertaining to the documents and objects that constitute state secrets may be conducted only upon the order of the inquiry officer or the investigator, authorized by the prosecutor or by the finding of the court.

Time, venue, and other conditions of such actions shall be coordinated by the prosecutor or the presiding judge with the head of the enterprise, agency or organization responsible for safekeeping of such documents or objects.

Only a person authorized to examine documents and objects constituting the state secret shall participate as a forensic examiner, witness expert, attesting witness for conducting the above actions.

#### **Article 90. Registration of Evidence in Official Records**

Information and objects may be considered as evidence only upon registration thereof in official records of pretrial and trial investigative actions.

During inquiry and pretrial investigation, official records shall be kept by the inquiry officer and investigator, whereas in the court – by the presiding judge and secretary of the court session.

The following information is subject to entering into official records: personal data of the participants of pretrial or trial examination; rights and obligations expounding to them; time and venue, conditions, course and results of the investigative or legal action, description of material objects and trace thereof that may be relevant for the case; facts requested to be verified by the participants of the investigative or judicial action; testimony, explanations, comments on such actions; motions, complaints, challenges filed by them; facts of violation of order during investigative action or court examination as well as remedial measures taken.

#### **Article 91. Auxiliary Methods of Recording Evidence. Attachments to Official Record**

The following methods may be used together with official records: audio and video recording, filming, taking pictures, molding, imprinting, mapping, scheming, and other forms for representing information. For assistance in application of the above methods of recording of evidence, an inquiry officer, investigator, and court may invite an expert witness.

An inquiry officer, investigator, court shall specify in the official record of, accordingly, the investigative action or the court session the methods applied for recording evidence with technical parameters of the apparatuses, devices, instruments, and materials.

Photographs, phonograms, videos, films, moulds, imprints, maps, schemes, and other presentations of the course and results of the pretrial or trial action shall be attached to the official record. Each attachment shall contain an explanatory note indicating the respective nomenclature, venue, and date of the investigative or judicial action. The note shall be certified with the signatures of the inquiry officer or the investigator and the attesting witnesses during the inquiry and pretrial investigation, whereas the presiding judge and the secretary of the court session certify it at the trial.

#### **Article 92. Verification of Evidence Recorded**

The participants of the investigative actions and the parties to the trial shall have the right to get familiarized with the official records of the course and results of such actions and to introduce therein additions and corrections.

As soon as the investigative action is completed, an inquiry officer or investigator shall provide the official record thereof to the participants for reading or, upon their request, shall read it aloud. By the same procedure, the presiding judge or, upon his authorization, the secretary of the court session shall familiarize the participants of the out-of-court action, as well as the parties, with the official record thereof.

Oral additions, corrections, comments, objections, motions, and complaints shall be entered in the official record, whereas those in writing shall be attached to the record. Erased or inserted words and other corrections shall be specified before the signatures at the end of the official record.

Upon getting familiarized with the official record of investigating action, the persons put their signatures at the bottom of each page and at the end of the record.

#### **Article 93. Verification of Refusal or Inability to Sign Official Record**

In case of refusal of a participant or another person to sign the official record of the investigative action, as envisaged by this Code, the inquiry officer or investigator shall make a respective entry in the official record and certify it with his signature.

In case of refusal to sign the official record of the court session, the respective entry shall be made in the official record and certified with the signatures of the presiding judge and the secretary of the court session.

The person refusing to sign the official record shall be given an opportunity to give an explanation for the refusal. The explanation shall be entered in the official record.

In case a participant of the investigative or judicial action is handicapped and therefore unable to sign the official record, the official record, upon his consent, shall be read aloud and signed by his defense counsel, representative, or any other entrusted individual, and the respective entry shall be made into the record.

#### **Article 94. Review of Evidence**

Evidence underlying the solution of the case shall be subject to thorough, complete, comprehensive, and impartial review. The review shall be made by collection of additional evidence supporting or disproving the evidence reviewed.

#### **Article 95. Evaluation of Evidence**

An inquiry officer, investigator, prosecutor, and court shall evaluate evidence by their certainty based on thorough, comprehensive, complete and impartial investigation of all circumstances of the case and guided by law and their legal sense. Each piece of evidence shall be subject to evaluation as to relevance, admissibility and credibility.

Evidence shall be recognized as relevant, if it presents information on facts and objects that support, disprove or question findings on the

circumstances relevant to the case.

Evidence shall be recognized as admissible if collected in accordance with the duly established procedure and meets the requirements under Articles 92-94 of this Code.

Evidence shall be recognized as credible if its review proves that it is true.

The totality of the evidence collected shall be recognized as sufficient for disposal of the criminal case if all relevant credible pieces of evidence, which indisputably establish the issue on each and all the circumstances subject to proof, have been collected.

## **CHAPTER 10. GENERAL RULES OF QUESTIONING**

### **Article 96. Venue of Questioning**

An inquiry officer or investigator shall question witnesses, victims, suspects, and accused at the venue of inquiry, pretrial investigation, or location of the questioned person, whereas the court questions at the venue of the session.

### **Article 97. Summon for Questioning**

A witness, victim, suspect, accused, and the defendant at large shall be summoned to an inquiry officer, investigator, prosecutor, and the court by a subpoena. The subpoena shall be sent by post or special delivery. The summons may also be conducted by telephone, cable, radiogram, or fax.

The summons shall indicate the person and the capacity, in which he is summoned, as well as the address of the venue and the official he shall meet, the date and hour of appearance and expounded liability for non-appearance without valid excuse.

A subpoena shall be served on the person summoned for questioning against a signed receipt. In the instance of temporary absence of the person being summoned for questioning, the subpoena shall be served on an adult member of his family residing with him, or shall be passed to the administration of the appropriate hostel, landlord or representative of the community body.

The persons detained at investigation ward, temporary detention ward, or penitentiaries shall be summoned via the administration of the institution.

### **Article 98. Identification of Questioned Person**

Before questioning, an inquiry officer, investigator, and court shall identify the questioned person's last name, first name and patronymic, date (year, month, date) and place of birth, residence and place of employment, position, occupation, background, marital status, previous convictions, if available, and shall compare these data with the information available in the criminal case file or personal file of the questioned, or shall ensure, by any other means, that the questioned is the person as named.

### **Article 99. Identification of Questioned Person's Language of Testimony**

By the reasonable doubts thereabout, it shall be identified if the interrogated has command of the language of the proceedings and which language he can testify in. In the cases envisaged by Article 71 of this Code, an interpreter/translator shall be engaged and the questioning shall be postponed until his arrival.

### **Article 100. Expounding Rights and Obligations**

Upon identification of the questioned, he shall be expounded the rights and obligations envisaged in this Code. A respective entry shall be made thereupon in the official record of the questioning or of the court session.

### **Article 101. Free Account of Circumstances**

The questioned shall be suggested to account the circumstances on the case known to him. The questioned may be asked additional questions thereupon to supplement or clarify his testimony.

### **Article 102. Prohibition of Leading Questions**

A question containing direct or indirect anticipation of the answer shall be recognized as leading. Posing of leading questions shall be prohibited.

### **Article 103. Use of Documents and Other Records by Questioned**

In case the testimony involves figures or other information difficult to remember, the questioned may use documents or any other records in his possession or those attached to the case file.

The questioned may be allowed to read aloud documents and other records in his possession during the questioning.

An inquiry officer, investigator, and court may request the documents and other records from the questioned that he has used during the questioning and shall return or attach them to the case file thereupon.

### **Article 104. Disclosure of Evidence Previously Given by Questioned**

The testimony from the previous questioning may be disclosed only after the current testimony has been heard, recorded and signed by the questioned in the instance:

1. of substantial contradictions between testimonies at the current and the previous questionings;
2. of refusal by the questioned to testify in court;
3. of court hearing in the absence of the questioned.

### **Article 105. Production of Objects and Documents to Questioned**

During questioning, the inquiry officer, investigator, and judges, as well as the parties to court examination, may produce objects and documents attached to the case file or being in disposal of the parties to the questioned and read out thereof.

The official record of interrogation or of the court session shall be entered with an accurate description of the object or the document produced, the part of the document read aloud and the person conducting thereof, the questions asked, and the evidence given by the questioned.

### **Article 106. Recording Course and Results of Questioning**

The course and results of questioning at the stage of inquiry and pretrial investigation shall be entered in the official record of questioning, whereas at trial they shall be entered in the official record of the court session.

Along with keeping official records, audio and video recording and filming may be used during the questioning.

Testimony of the questioned shall be recorded in the first person singular, and when possible, verbatim. Questions and answers shall be recorded in the order of being asked and answered during the questioning. All questions shall be entered in the official record, including those that were waived by the investigator, or those that the questioned refused to answer.

The official record shall be therewith entered with the disclosure of evidence previously given by the questioned, use of documents and other written materials by the questioned, production of objects and documents during the questioning, use of audio and video recording, and filming. The phonogram, videotape and the film shall be attached to the official record.

Upon the questioning, the official record shall be presented to the questioned for reading, or, upon his request, shall be read out by the inquiry officer or investigator.

The questioned may give handwritten evidence. The evidence shall be attached to the official record with an entry to that effect being made therein.

Prior to signing the official record, the questioned or a party at the court examination may ask to play back the sound recording, video recording, or film. In case of substantial contradictions between the recordings and the official record, the questioning shall be continued to establish the reasons.

Upon reading the official record, the questioned shall certify with his signature the accuracy of testimony recorded and his familiarization therewith. The signature shall be put at the end of the official record and, if the testimony is recorded onto several pages, every page shall be signed separately.

If an interpreter/translator participates in the questioning, he shall interpret to the questioned the transcript of his testimony in the official record and translate the handwritten testimony. The interpreter/translator shall sign the testimony records at the end of the official record and each page thereof separately as well as translation of the handwritten testimony of the questioned.

### **Article 107. Duration of Questioning**

An overall duration of the questioning per day must not exceed eight hours excluding one-hour break for rest and meals.

### **Article 108. Additional Questioning**

Additional questioning may be conducted if, as follows:

1. the duration of questioning envisaged by Article 107 of this Code is insufficient for the questioned to give testimony on the circumstances of the case known to him;
2. the questioned expresses a wish to supplement or change the previously given testimony;
3. the questioned has been charged with a new or altered, or additional charges;
4. the prosecutor considers necessary to verify accuracy of the records of the testimony given by the person previously questioned by the investigator or the inquiry officer;
5. a new investigator, who has taken a brief, considers it necessary to verify the accuracy of the records of the testimony given by the person previously questioned by another investigator or the inquiry officer;
6. new substantial questions to the previously questioned have emerged;
7. the reserve people's assessor, who has entered the case after the questioning of the person, demands a new questioning of the person.

## **CHAPTER 11. QUESTIONING OF SUSPECT AND ACCUSED**

### **Article 109. Procedures for Questioning of Suspect and Accused**

Questioning of a suspect and accused shall be conducted in accordance with the rules envisaged in the Articles 96-108 of this Code and the following articles of this chapter.

### **Article 110. Time Limit of Questioning**

During inquiry and pretrial investigation, the suspect or the accused person shall be questioned immediately or within twenty-four hours upon the apprehension, appearance for the questioning, detention, or reconduction.

The judge shall secure the defendant's right to give testimony at any moment of the trial. If the defendant manifests his desire to give testimony in the course of any judicial action, the court shall provide him with the opportunity thereto upon the completion of the action.

### **Article 111. Actions Preceding the First Interrogation of Suspect and Accused**

Before questioning of a suspect and accused, the inquiry officer or the investigator shall conduct the actions envisaged in Articles 98-100 of this Code.

Thereupon, the inquiry officer or/and the investigator shall, as follows:

1. expound the procedural rights and obligations to an accused and a suspect as envisaged Articles 46-48 of this Code;
2. ensure participation of the defense counsel retained by the suspect or the accused, or any other defense counsel, if the suspect or the accused had no time or was unable to retain;
3. announce to the suspect the crime in commission of which he is suspected;
4. produce to the suspect the resolution on his engagement to the participation in the case as a suspect and explain the substance of the charges against him.

Before questioning, the inquiry officer or the investigator shall ask the defendant whether he admits his guilt or denies it in full or in part.

The conduct of actions listed in this article shall be entered by the inquiry officer or investigator in the official record of the questioning, whereas at trial they shall be entered in the official record of the court session.

#### **Article 112. Evaluation of Testimony of Suspect and Accused**

Confession given by a suspect or accused may underlie the charge only if the confession is confirmed by totality of evidence.

Evidence based on the testimony given by the accused or the suspect as well as other evidence shall be reviewed and evaluated with respect to all circumstances of the case both in the instance of confession and denial of guilt by the accused.

#### **Article 113. Statement of Voluntary Surrender**

Statement of voluntary surrender shall be a communication of a person, who has been neither suspected nor charged, about a crime that he committed.

The statement of voluntary surrender may be made both in written or oral form. Oral statement shall be entered in the official record by the inquiry officer, investigator, prosecutor, or the court and include information on the personal data of the person, who makes a statement of surrender, and content of his statement made in the first person singular. The official record shall be signed by the person and the inquiry officer, investigator, prosecutor, or the judge.

The statement of voluntary surrender shall be evaluated by the inquiry officer, investigator, prosecutor, and court as envisaged by Article 112 of this Code.

### **CHAPTER 12. QUESTIONING WITNESS AND VICTIM**

#### **Article 114. Procedure of Questioning Witness and Victim**

A witness and a victim shall be questioned according to the general rules envisaged in Articles 96-108 of this Code and in the following articles of this Chapter.

#### **Article 115. Persons Who Shall Not Be Questioned as Witnesses and Victims**

The following persons shall not be questioned as witnesses or victims:

1. a judge or people's assessor – concerning the circumstances of the discussion of the issues of sentencing and finding held in the retiring room;
2. a defense counsel as well as a legal representative of a victim, civil plaintiff, and civil respondent – concerning the circumstances that have become known to him in connection with the participation in proceedings;
3. a person unable to apprehend correctly the circumstances relevant to the case, due to his physical or mental defects.

#### **Article 116. Persons Who Shall Be Questioned as Witnesses and Victims Only Upon Their Consent**

Immediate relatives of the suspect, accused, and defendant may be questioned as witnesses or victims on the circumstances with respect to the suspect, and accused, only upon their consent.

#### **Article 117. Advising Witness and Victim on Liability for Violation of Procedural Obligations**

Upon identification of personal data of the witness or the victim and expounding him his procedural rights and obligations, he shall be advised on criminal liability for refusal to testify or giving deliberately false evidence, with the respective entry made thereupon in the official record of the questioning or of the court session.

Immediate relatives of the suspected, accused, and defendant shall not be advised on criminal liability for giving deliberately false evidence.

#### **Article 118. Inadmissibility of Refusal to Testify on the Grounds of Special Circumstances**

The witness or the victim may not refuse to testify on the grounds that the circumstances questioned by the inquiry officer, investigator, or the court are related to the state or trade secrets, or to the intimacy of the suspect, accused, defendant, or other persons.

If the inquiry officer, the investigator or the court believe that the facts to be clarified may reveal state or trade secrets, or relate to the intimacy of the person, they shall act in a way to prevent disclosure of such facts.

#### **Article 119. Testimony by Witness and Victim**

Upon cautioning the witness and the victim on liability for violation of procedural obligations, the victim shall answer the questions

concerning his relations with the suspect, the accused, defendant, the civil plaintiff, and the civil defendant; whereas the witness – concerning his relations with the victim. Thereafter, by the invitation of the inquiry officer, the witness or the victim shall disclose everything known to him on the case. They may give evidence on any circumstances that are or may be of significance to the case, including those on the personality of the suspect, accused, defendant, or other participants of the proceedings.

#### **Article 120. Questioning Witness or Victim by his Request**

If the witness or the victim being present at the site of investigation or in court manifests wish to testify, he shall be questioned within the same day or not later than the following day.

If the request of the witness or the victim to testify arrived to the court or investigator's office by post, the sender shall be promptly notified on the time and venue of questioning and shall be questioned immediately upon his arrival.

#### **Article 121. Special Features of Questioning of Juvenile Victim or Juvenile Witness**

Examining of a victim or witness under sixteen years of age shall be conducted with participation of his legal representative or an adult immediate relative, an educator, or a representative of the victim upon their consent. The persons mentioned may ask questions to the witness or the victim with approval of the inquiry officer.

Victims or witnesses under sixteen years of age shall not be advised of liability for refusal to give testimony or for giving testimony known to be false, but an inquiry officer, investigator, or presiding judge shall advise such witnesses and victims, while expounding their procedural rights and obligations, on the moral duties to give true evidence and assist thereby in establishing the issue on the criminal case.

### **CHAPTER 13. CONFRONTATION**

#### **Article 122. Grounds for Confrontation**

Confrontation shall be conducted in the instances of substantial contradictions in the testimony of two previously questioned persons in order to find the reasons for such contradictions.

By confrontation, a suspect, accused, defendant, victim, and witness may be questioned.

#### **Article 123. Procedure of Confrontation**

Confrontation shall be conducted in accordance with general procedure of questioning envisaged by Articles 96-108 of this Code as well as by the following rules of this chapter.

At the beginning of confrontation the inquiry officer, investigator or the presiding judge shall ask each of the questioned alternatively whether they know each other, and what is the relationship between them, and listen to their answers. Then the participants shall be alternately suggested to give testimony regarding the circumstances that caused contradiction. If contradictions concern several episodes or circumstances, they may be asked, after confronting on one episode or circumstance, about the next episode or circumstance.

With the permission of the inquiry officer, investigator, or the presiding judge, persons participating in the confrontation may pose questions to each other. During the court session, both participants may be asked questions from the people's assessors and the parties. The inquiry officer, investigator, and the presiding judge may overrule the questions insignificant for the case or irrelevant to the contradiction examined at the confrontation.

#### **Article 124. Reading out Previous Testimony at Confrontation**

Reading out the testimony of the participants in confrontation, contained in the official records of previous questioning, as well as playback of phonograph of such testimony shall be permitted only after giving testimony by the said persons have been entered in the official record of confrontation.

### **CHAPTER 14. PRESENTATION FOR IDENTIFICATION**

#### **Article 125. Grounds for Presentation for Identification**

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

1. establish if this testimony is related to the specific person or object;
2. identify the person or the object described in the testimony amongst a number of persons or objects known to the inquiry officer, investigator, or the court.

#### **Article 126. Questioning before Presentation for Identification**

An identifier shall be questioned beforehand regarding special features, description or peculiarities of the person or the object to be identified.

#### **Article 127. Procedure for Identification of Person**

A person shall be presented for identification together with other persons looking as similar as possible to the person being identified and not participating in the investigated case, in the presence of attesting witnesses. A total number of persons presented for identification shall be not less than three.

Before conducting the identification, the identified person is offered to take any place among the persons presented.

The identified person shall not be clearly distinguished from the other persons presented by his clothes, haircut, or other signs.

When it is impossible to present a person or for the reasons of his safety, the identification may be conducted by his photograph.

At least three photographs shall be presented durably affixed on a table, sealed, and numerated, without names and surnames of persons photographed.

#### **Article 128. Procedure for Identification of Deliverable Objects**

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

A similar object shall be an object, not distinguished from the object described in the testimony by its appearance, features, peculiarities indicated by the identifier during the questioning. The location of the presented objects shall be determined by the inquiry officer, investigator in the presence of attesting witnesses.

The procedures for identification among similar objects shall not be applied to the identification of a corpse.

#### **Article 129. Procedure for Identification of Undeliverable Objects**

In case a victim, the witness, suspect, accused or the defendant mentions and describes a site, building, a room in a building or any other immovable object, but cannot define or indicate precisely the location thereof and is willing to show the way to the site from the known starting point, he shall be allowed to show the object.

The inquiry officer, or the investigator and attesting witnesses, or the banc and the parties along with the identifier shall arrive to the starting point indicated by the identifier. From the starting point the participants of presentation for identification shall follow the identifier. Measures to prevent pointing the route to the identifier by other participants or other persons shall be taken.

#### **Article 130. Testimony of Identifier during Identification**

Upon presentation of the group of persons or several objects for identification, the identifier shall be suggested to point at the person or the object previously indicated in testimony.

If the identifier pointed at one of the persons presented to him, or at one of the objects, it shall be suggested to explain by what features or peculiarities he identified these person or object.

In case the identifier states that he has not seen any persons or objects before, he shall be suggested to explain what the object or the person presented differs in from those presented.

#### **Article 131. Record of Presentation for Identification**

Presentation for identification during inquiry or pretrial investigation shall be entered in the official record. Presentation for identification at court examination shall be entered in the official record of the court session.

Both records shall be entered with, as follows: data on identifier, conditions, course and results of identification, persons presented for identification, their age, height, ethnic origin, residence, visible peculiarities, clothes; description of objects presented for identification; in case of an undeliverable objects – description of the route directed by the identifier and the route from the starting point to the object.

In case photographs have been presented for identification, the official record shall be attached with a photo-table.

Testimony of the identifier and the questions of the inquiry officer, investigator, court, parties, and other persons, as well as his answers, shall be entered in the official record in accordance with the rules envisaged in Article 106 of this Code.

### **CHAPTER 15. ON-SITE VERIFICATION OF TESTIMONY**

#### **Article 132. Grounds for On-Site Verification of Testimony**

An inquiry officer, investigator, and court may verify the testimony given by a suspect, accused, defendant, witness, and victim by on-site reconstitution thereof.

On-site verification of testimony shall be conducted to: discover objects, documents, traces, signs, location of which is known to the person whose testimony is verified, but is unknown to the inquiry officer, investigator, and the court; indicate the site or the route in question for identifying similarities or differences in the testimony given by several persons on the same facts; verify the credibility of the testimony by reproduction thereof and comparison with the crime situation.

The person, whose testimony is verified, shall give on-site explanations with demonstration, examination, and seizure of objects, documents, and signs, or with reproduction of actions, or specify his previous testimony.

Results of on-site verification of testimony of the suspect, accused, and defendant shall be considered evidence if their knowledge on the specific circumstances cannot be explained other than by their culpability.

#### **Article 133. Procedure of on-site verification of testimony**

On-site verification of testimony shall be conducted by the inquiry officer or the investigator with participation of attesting witnesses, and by court with participation of the parties. Forensic examiner and witness expert may participate in on-site verification of testimony as well.

An inquiry officer, investigator, or court shall read out the testimony to be verified in the presence of the parties and other participants of the investigative action and ask the person, whose testimony is being 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 age of sixteen, shall be advised on the criminal liability for refusal to testify or giving testimony known to be false.

Simultaneous on-site verification of testimony of several persons shall be prohibited.

During on-site verification the person, who gave the testimony, may, as follows: reconstitute the situation and circumstances of the event; search and indicate any objects, documents, and signs related to the case; demonstrate specific actions; indicate the instrumentality of objects detected at commission of the crime; draw attention to changes in on-site situation; specify and correct his previous testimony. An outside interference, prompting and leading questions shall be prohibited.

Questions may be asked to the person, whose testimony is being verified, after his free account and demonstration of actions. The persons participating in the on-site verification of testimony may draw attention of the inquiry officer, investigator, and the court to any circumstances that are believed to contribute to establishment of the issue as well as demand repetition of actions. The person, whose testimony is being verified, as well as other participants may demand additional questioning in connection with the investigative action.

#### **Article 134. Official Record of On-Site Verification of Testimony**

Upon the on-site verification of the testimony, the inquiry officer or the investigator shall make the official record, whereas the court shall enter the course and results of the verification in the official record of the court session, in accordance with the rules envisaged in Article 90-92 of this Code.

The following shall be entered in the official record: the location, time, and conditions of the verification; the objects and sites examined; on-site testimony; the course of reconstitution; emendations by the persons into his previous testimonies.

### **CHAPTER 16. VIEW**

#### **Article 135. Grounds for Conducting View**

For discovering of traces of a crime, physical evidence, establishment of situation of an event or other circumstances, important for the case, the inquiry officer, the investigator, or the court shall conduct a view of locality, corpse, animals, surroundings, premises, objects, and documents.

View of a human body shall be conducted according to the rules of physical and expert examination (Articles 142-147 and 172-187 of this Code). View of mail shall be performed as envisaged in Article 167 of this Code.

Objects and documents discovered by seizure or search shall be viewed according to the rules established for the conduct of such investigative actions.

#### **Article 136. General Requirements to Procedure of Examination**

View during interrogation and pretrial investigation shall be conducted with participation of attesting witnesses. In case of necessity of view during trial, the court shall render a respective finding and conduct the view with participation of the parties.

If necessary, an inquiry officer, investigator, or the court, in case of necessity, may make measurements, photographing, filming, video recording, mapping, charting, sketching, casting, and imprinting of traces. To assist therein, a forensic examiner may be engaged.

All objects discovered and seized during the view must be presented to the attesting witnesses and other participants of the view.

Persons participating in the view may draw attention of the inquiry officer, investigator and the court to any circumstances that are believed to contribute to establishment of the issue.

#### **Article 137. View of Locale of Crime**

View of a locale shall be conducted only if there exists evidence that the locale is the site of crime or contains signs thereof.

In the instances that brook no delay, the view of the locale may be conducted before the initiation of criminal case. In this case, resolution of a criminal case or waiver thereof shall be issued not later than within seventy-two hours, whereas in extraordinary cases within ten days upon the view.

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

Objects, documents, and traces collected thereby shall be packed and sealed. Large objects, which can be neither seized nor sealed, shall be duly secured by the measures to be taken by the inquiry officer or the investigator.

#### **Article 138. View of Corpse**

An investigator shall conduct a view of a corpse at the place where it was discovered in the presence of attesting witnesses, with participation of a forensic medical examiner, and when his participation is impossible – with participation of a doctor. If necessary, other examiners or expert witnesses may be engaged to view a corpse.

View of a corpse at exhumation shall be conducted as envisaged by Articles 148-152 of this Code.

View of a corpse at the site of discovery shall be conducted as envisaged by Articles 126-131 of this Code. Unidentified corpses shall be subject to mandatory fingerprinting. Other samples for examination may be obtained from a corpse in accordance with Articles 188-191, 193, and 197 of this Code.

Burial of an identified corpse shall be done only upon permission of the prosecutor.

#### **Article 139. Examination of Locality and Premises**

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

If necessary to examine a dwelling or an office, the inquiry officer or the investigator shall render a resolution, whereas the court shall render a finding. The person whose dwelling shall be subject of examination, or a representative administration of the appropriate enterprise, institution, and organization shall get familiarized with the resolution or finding and sign it thereupon.

Conducting view at enterprises, institutions, and organizations, shall be mandatory participated by a representative of the administration, at military units – by representative of the command, and in case of necessity – by a person accounting for property. View of premises shall be conducted as envisaged by Articles 160 and 161 of this Code.

#### **Article 140. View of Objects and Documents**

An inquiry officer, investigator, and court shall conduct view of the objects and documents at the site of their discovery; in case the view requires longer time or application of additional technical facilities they shall view them thereupon at the site of inquiry, pretrial investigation or court session.

View may be conducted with application of technical facilities only if it does not damage or destroy the object or the document.

#### **Article 141. Official Record of View**

An inquiry officer or investigator shall execute an official record on the course of the view, whereas the court shall enter the results of the view in the official record of the court session, in accordance with the rules envisaged in Article 90-92 of this Code.

The official record shall be entered with descriptions of all discoveries made in the same consequence and in the same condition as during the view. All traces, objects, and documents discovered and seized during the view shall be enlisted in the official record. The owner of the seized objects shall be provided with an appropriate certificate or a copy of the official record.

the official record shall also refer to the time, weather and lighting conditions of the view or physical examination; technical facilities used and results obtained, objects seized and sealed, description of the seal, the agency where the corpse or the objects that are of significance for the criminal case were forwarded.

### **CHAPTER 17. PHYSICAL EXAMINATION**

#### **Article 142. Grounds for Physical Examination**

Physical examination shall be conducted in cases when it is necessary:

1. to discover special marks, traces of bodily injuries on a person's body, information on physique, spots, scratches, grazes, bruises, or other properties and signs that are of significance for the criminal case, if a forensic expert examination is not required;
2. to ascertain the state of alcoholic intoxication and other physiological states by applying methods not requiring a forensic expert examination.

#### **Article 143. Persons Subject to Physical Examination**

A suspect, accused person, defendant, or victim may be subject to physical examination. Physical examination of a witness shall be permitted only to verify his testimony.

#### **Article 144. Resolution or Finding on Conducting Physical Examination**

If there sufficient information, that the body of the suspect, accused, defendant, or victim contains marks of the crime and other signs relevant to the case or that he is in an unusual physiological condition, an inquiry officer or investigator shall issue a resolution and the court shall render a finding on conducting a physical examination.

A resolution or finding shall specify: who and for what purpose shall conduct physical examination; who shall be examined; and to whom and when the person shall arrive for the examination.

#### **Article 145. Binding Nature of Resolution or Finding on Physical Examination**

Resolution rendered by inquiry officer, investigator, or a finding of a court on physical examination shall be binding for the persons concerned.

The persons evading from physical examination may be subject to forcible appearance thereto.

#### **Article 146. Procedure of Physical Examination**

A resolution or finding on conducting physical examination shall be read out to the examined. All participants of physical examination shall be expounded their rights and obligations.

A physical examination without baring for detection of scratches, grazes, bruises shall be conducted by the inquiry officer or investigator with participation of attesting witnesses and, if required, of a forensic medical or other examiner. Physical examination of this type may be performed at the court with participation of the parties.

Physical examination with baring for detection of scratches, grazes, bruises as well as the physical examination envisaged by Paragraph 2 of Article 142 of this Code, shall be conducted by a forensic medical examiner or other examiner duly authorized by the inquiry officer or investigator.

#### **Article 147. Official Record of Physical Examination**

An inquiry officer or investigator shall execute an official record on the physical examination, whereas the court shall enter the results thereof in the official record of the court session, in accordance with the rules envisaged in Article 90-92 of this Code. Official records shall describe all actions of the person conducting physical examination and all marks, signs, features discovered during physical examination.

In case the physical examination has been performed by a forensic medical or other examiner, he shall make and sign the official record, which shall be signed by the examined person and attesting witnesses and submitted to the inquiry officer, investigator, or court.

## **CHAPTER 18. EXHUMATION OF CORPSE**

### **Article 148. Grounds for Corpse Exhumation**

When it is necessary to remove a corpse from the place of burial for examination, identification, obtaining samples for investigation or expertise, an inquiry officer or investigator shall render a resolution sanctioned by a prosecutor to exhume it. Court may authorize inquiry agency or investigator to conduct exhumation by rendering a finding thereon.

### **Article 149. Procedure for corpse exhumation**

An inquiry officer, investigator, or court shall conduct a corpse exhumation in cooperation with health institutions and in the presence of a representative of the burial place. In the course of inquiry or pretrial investigation, exhumation shall be conducted with mandatory participation of attesting witnesses, whereas at trial – with participation of the parties.

Corpse exhumation shall be attended by a professional forensic medical or other examiner. Participation of a forensic medical examiner in the examination of the exhumed corpse shall be mandatory.

When required, a suspect, accused and other persons able to identify the corpse may participate in its exhumation.

### **Article 150. Proceedings Related to Corpse Exhumation**

In case the exhumation is conducted for the consequent examination of the corpse, a respective resolution or finding on conducting thereof shall be rendered. The corpse shall be delivered to the appropriate agency or examined at the place of burial.

View, identification and sampling of a corpse for forensic examination shall be performed as envisaged by Articles 125, 126, 131, 138, 188-191, 193, and 197 of this Code.

### **Article 151. Official Record of Corpse Exhumation**

The inquiry officer or investigator shall make the official record on the exhumation, whereas the court shall enter the results thereof in the official record of the court session, in accordance with the rules envisaged in Article 90-92 of this Code. The record may be attached with photographs, films, and video recording of the grave, coffin, or corpse.

If, after the exhumation, a view, identification and sampling of a corpse for forensic examination were conducted, it shall be entered into the official record as well.

### **Article 152. Burial of Corpse after Exhumation**

The corpse, after exhumation and other subsequent procedural actions, shall be reburied with participation of the official who renders a resolution or finding on the exhumation. Reburial shall be officially recorded.

## **CHAPTER 19. EXPERIMENT**

### **Article 153. Grounds for Conducting Experiment**

An investigator, inquiry officer, court may verify a testimony given by a witness, victim, suspect, accused, and defendant, as well as other evidence and leads relevant to the case, by way of reproduction of actions, or the setting, or other circumstances of certain event and conducting required tests.

An experiment shall be conducted for verification of a possibility to perceive facts, carrying out certain actions, or coming of an event as well as of succession of the events and the pattern of forming traces.

### **Article 154. Resolution or Finding on Conducting Experiment**

An inquiry officer or investigator shall render a resolution, and court shall render a finding on conducting experiment. The resolution of an inquiry officer or investigator to conduct an experiment, which may cause a damage of property of individuals, enterprises, institutions, organizations, or alteration of schedule at plants, timetables of transport operations and other negative consequences, shall be sanctioned by the prosecutor.

It shall be prohibited to conduct an experiment violating the public order or morals.

An experiment conducted by a forensic examiner shall be a part of forensic examination.

### **Article 155. Procedure for Conducting Experiment**

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

An experiment may be participated by a forensic examiner and expert witness as well as persons conducting experimental activities. Complex experiments shall be conducted in the presence of at least two attesting witnesses and several forensic examiners. Persons whose testimony is subject to verification shall also be engaged in the experiment. Witnesses and victims shall be advised on liability for refusal to give testimony or testimony known to be false. All participants of the experiment shall be explained the its purpose and procedures.

Before experiment, the situation of the investigated event shall be reconstituted in full accordance with the testimonies and leads to be verified. For this purpose, a suspect, accused, defendant, victim, or witness shall be suggested to reconstitute the situation and

circumstances of the event he participated or witnessed. An investigator, inquiry officer, or court shall conduct thereafter the experimental actions applying measurements, filming, sound recording, video recording, mapping, charting, sketching, experimental casting, and imprinting.

Conditions of the experiment shall simulate as precisely as possible the circumstances of the action and event reconstituted. Experiments may be conducted repeatedly. Conditions for experiments may vary.

A suspect, accused, defendant, victim, witnesses, forensic examiner, or expert witness may be questioned in connection with the experiment. Under permission of the court, the parties may ask questions to the persons participating in the experiment. The parties and other persons participating in the experiment may draw attention of the inquiry officer, investigator, and the court to any circumstances that are believed to establish the issue, as well as demand explanation on the conditions of the experiment and repetition thereof. The person whose testimony is verified may demand additional questioning in connection with the experiment.

#### **Article 156. Official Record of Experiment**

The inquiry officer or the investigator shall make an official record on the experiment, whereas the court shall enter the course and results thereof in the official record of the court session, in accordance with the rules envisaged in Article 90-92 of this Code. The official record shall also indicate, as follows: the purpose, time, venue, and conditions of the experiment; the way of reconstitution of the situation and circumstances of the event; experimental activities, their consequence, actors, and number of times of conduction; the results obtained.

### **CHAPTER 20. SEIZURE AND SEARCH**

#### **Article 157. Grounds for Seizure**

An inquiry officer, investigator and court may conduct a seizure of certain objects and documents that are of significance for the criminal case, if the location and the holder thereof are known exactly and therefore unnecessary to be hunted out.

#### **Article 158. Grounds for Search**

An investigator, inquiry officer may conduct a search, if there is sufficient information to believe, that objects and documents significant for the criminal case, may be located in a dwelling, office, workplace, or other place, or in possession of a person.

A search may be conducted to discover persons or corpse being searched for.

#### **Article 159. Resolution or Finding on Seizure or Search**

Seizure and search shall be conducted on a resolution of an inquiry officer or investigator, or finding of a court, which may authorize the inquiry agency or the investigator to conduct thereof.

A resolution or finding on conducting a seizure or search shall indicate a venue and a person subject to search and seizure, as well as objects and documents to be searched and seized.

#### **Article 160. Persons Participating in Seizure or Search**

A seizure and search shall be participated by attesting witnesses and, if required, a specialist and interpreter/translator.

A seizure and search shall be conducted in the presence of a person whose dwelling to be seized or searched, or at least one of his adult family members. In case of impossibility of their presence, a representative of the local khokimiyat\* or self-government body shall be engaged.

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

Before conducting search and seizure, a person to be searched, attesting witness, forensic examiner, representative of enterprises, institutions, organizations, and military units shall be expounded with their right to participate at all actions of the investigator or inquiry officer and make statements thereon. Such statements shall be entered in the record.

#### **Article 161. Procedure of Seizure or Search**

Search shall be conducted pursuant to a well-founded resolution of investigator or inquiry officer with a sanction of a prosecutor. In the instances that brook no delay, a search may be conducted without a prosecutor's sanction; however, a prosecutor shall be notified on the search within twenty-four hours. The instances that brook no delay shall be founded therein by the investigator or inquiry officer. A copy of notification shall be attached to the case file.

An investigator or inquiry officer may enter a dwelling or other premise for conducting a search of objects and documents related to the case on the basis of a resolution or a finding thereof.

Before conducting seizure or search, the inquiry officer or investigator shall familiarize the person, whose dwelling is to be searched or seized, with the resolution or finding and get his signature thereupon.

The investigator may prohibit persons present at the site of the search and seizure to leave that location, as well as to communicate with each other and other persons until the completion of the search and seizure.

Upon reading out the resolution or finding and prior to seizure, the investigator shall suggest that objects and documents, subject to seizure, shall be surrendered voluntarily, and in case of refusal shall seize them forcibly. In case such documents or objects have not been found at the place indicated in the resolution or finding, a search shall be conducted.

Upon reading out the resolution or finding and prior to search, the investigator shall suggest that objects and documents, subject to

seizure, shall be surrendered voluntarily. If they are surrendered voluntarily, an official record of seizure shall be drawn. In case the sought objects and documents have not been surrendered or have been surrendered partially, a search shall be conducted. During the search only the objects and documents listed in the respective resolution or finding shall be seized. Other discovered objects and documents that may be of significance for the criminal case, as well as those of prohibited storage shall be subject to seizure as well. The investigator or inquiry officer shall specify the reasons to seize thereof in the official record of the search.

The sized objects and documents shall be demonstrated to the attesting witnesses and other participants, described in detail in the record, and, in case of necessity, be packed and sealed. Removal of the packing and the seal shall be permitted only in the presence of attesting witnesses.

While conducting the search any premises may be forcibly opened if the owner refuses to open them voluntarily. Unnecessary damage of locks, doors and other objects of property should be thereby avoided.

#### **Article 162. Body Seizure and Search**

Under the grounds envisaged in Articles 157 and 158 of this Code, the inquiry officer and investigator may seize the objects and documents, that may be of significance for the criminal case, discovered in clothes of a person, on his body or in his belongings.

Body search and seizure shall be conducted in accordance with Articles 157-161 of this Code. They may be conducted without a specific resolution or finding in the instances of:

1. arrest of a suspect by a militiaman\* on duty, if there are sufficient grounds to believe, that the suspect bears a weapon or intends to get rid of an evidence of commitment of a crime (Article 224 of this Code);
2. making a record of arrest upon delivery of a suspect to militia\*\* or other law-enforcement unit in accordance with Article 225 of this Code;
3. taking the accused person into custody – if there are sufficient grounds to believe that he bears a weapon and other objects of prohibited storage, as well as other objects that may be of significance for the case;
4. sufficient grounds to believe that the person, who is in the premise or other places under sought or seizure, conceals by him the objects and documents, that are subject to seizure on the resolution or finding on conducting the search or seizure.

Body search and seizure of objects and documents may be conducted by the inquiry officer or investigator with participation of a forensic examiner and witnesses of the same sex with the person being searched.

#### **Article 163. Official Record of Seizure or Search**

The inquiry officer or investigator shall draw an official record on the conducted search or seizure in accordance with the rules of Articles 90-92 of this Code. The results of seizure of objects and documents conducted by the court shall be entered in the official record of court session.

the official record must refer to the place and circumstances the objects and documents were discovered, whether they were surrendered voluntarily or seized forcibly. All objects seized must be listed with specific reference to their amount, size, weight, individual characteristics, and, in case of necessity, shall be packed and sealed.

If, during the search, attempts were made to destroy or conceal objects or documents subject to seizure, an entry to that effect shall be made in the official record with a reference to the measures taken by the inquiry officer or investigator.

#### **Article 164. Obligation to Present a Copy of Official Record of Seizure or Search**

A copy of the official record of a search or seizure shall be handed over to the person, in whose premises the search was conducted, or to an adult member of his family, and in case of his the absence – to a representative of the local khokimiyat or self-government body. If necessary, the above persons may be issued copies of the seized documents.

#### **Article 165. Conduct of Seizure or Search in Premises of Diplomatic Mission and Diplomatic Representatives**

Seizure or search in the premises of diplomatic missions or representatives thereof enjoying diplomatic immunity, and their respective families, shall be conducted only upon request or consent of the head of a diplomatic mission – when searching or seizing on the territory of a diplomatic mission, or by approval of diplomatic representatives or their adult family members – when conducting a search or seizure in their dwellings or other premises residing by them. The above rules shall also apply to foreign nationals non-accredited in the Republic of Uzbekistan, who enjoy diplomatic immunity and their family members.

Under the rules envisaged in Paragraph 1 of this Article, body search and seizure may be conducted in regard to a person with diplomatic immunity and his family members.

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.

Search or seizure at the premises of diplomatic missions, the representatives enjoying diplomatic immunity, and their family members, shall be mandatory conducted in the presence of a prosecutor and a representative of the Ministry of Foreign Affairs of the Republic of Uzbekistan.

#### **Articles 166. Impounding of Postal and Telegraph Correspondence**

If there are sufficient reasons to believe that postal and telegraph correspondence from or to a suspect, accused, or defendant, may contain information on the committed crime, or the documents and objects important to the case, the inquiry officer, investigator, or court may impound them in full or in part.

The following postal and telegraph correspondence may be impounded: letters of all types, cables, radiograms, printed matters, packages, parcels, and post containers.

Impounding of postal and telegraph correspondence shall be conducted in accordance with a resolution of the inquiry officer or the investigator or a finding of the court.

A resolution or finding on the impounding of postal and telegraph correspondence shall refer to: last name, first name, patronymic, and address of the person, whose post and telegraph correspondence must be held; types of postal and telegraph correspondence to be impounded; the time limit of impounding; the name of the communications office obliged to hold appropriate postal and telegraph correspondence and inform the inquiry officer and investigator thereof.

A finding by the court shall oblige a communication office to deliver the above-mentioned postal and telegraph correspondence to the court.

A resolution or finding on impounding postal and telegraph correspondence shall be addressed to the head of the respective communication office and be binding on him. Non-execution or disclosure of the resolution or finding shall entail liability.

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

#### **Articles 167. Examination and Seizure of Post and Telegraph Communications**

Upon arrival to a communication office, an inquiry officer or investigator shall open and examine the postal and telegraph correspondence in the presence of attesting witnesses, and if necessary, of a forensic examiner. In case of discovery of information, documents, objects related to the case, the investigator or the inquiry officer shall seize or copy the impounded correspondence. If no information, documents, objects related to the case are available, the investigator or the inquiry officer shall instruct to deliver the examined correspondence to the addressee or to hold it for the term established thereby.

In each instance of a view of postal and telegraph correspondence an official record shall be drawn up referring to: who conducted the view of, copying of, forwarding to an addressee of, or held post and telegraph correspondence, and what post and telegraph correspondence was viewed, copied, forwarded to an addressee, or held. The record shall be made in accordance with Articles 90-92 of this Code.

#### **Article 168. Lifting of Impounding Postal and Telegraph Correspondence**

Impounding of postal or telegraph correspondence shall be lifted by the inquiry officer, investigator, or court, who previously imposed it, when it is no longer necessary to apply this measure. The impounding shall be lifted at the pretrial investigation upon the dismissal of the criminal case, and at the court of first instance – upon rendering a finding on dismissal of the case or on coming into effect of the sentence.

### **CHAPTER 21. WIRETAPPING OF TELEPHONE AND OTHER COMMUNICATIONS**

#### **Articles 169. Grounds for Wiretapping of Telephone and Other Communications**

If there exist sufficient reasons to believe that telephone and other communications of a suspect, defendant, and other persons may contain data that are of significance for the criminal case, an investigator, inquiry officer may issue a resolution on wiretapping of telephone or other conversations.

#### **Article 170. Procedure for Wiretapping of Telephone and Other Communications**

Wiretapping of the telephone and other communications of a suspect, accused, or defendant shall be conducted under a resolution of an investigator or inquiry officer sanctioned by a prosecutor, or finding of a court.

When there is a threat of violence, extortion, or other illegal actions against a victim, witness, or their relatives and intimate persons, wiretapping of the telephone and other communications shall be permitted upon a written request or consent of the said persons, a sanction of the prosecutor, or on finding of the court.

In the instances that brook no delay, the inquiry officer or investigator may address a resolution on wiretapping to the national security service without a sanction of a prosecutor, with his prompt notification thereof in written. The unsanctioned resolution on wiretapping shall be valid within a day.

The resolution or finding on wiretapping of the telephone and other communications, which indicates the character and volume of information to be wiretapped, as well as the form of recording thereof, shall be forwarded for execution to the national security service. Wiretapping may not exceed six months.

Wiretapping of the telephone and other communications shall be audio-recorded. The tape with the recordings shall be attached to the official record of the investigation.

#### **Article 171. Official Record of Wiretapping of the Telephone and Other Conversations**

The person who has conducted wiretapping and audio recording shall execute an official record that shall contain brief transcript of the recording, which is relevant to the case. The audio recording shall be sealed and attached to the official record, and the part thereof, irrelevant to the case, shall be destroyed upon coming into effect of the sentence.

An official record of wiretapping and audio recording shall indicate the phone number, time and location of wiretapping and audio recording, type and model of technical facilities applied, information on the persons in charge thereof and other information that is of significance for the case.

### **CHAPTER 22. EXPERT EXAMINATION**

#### **Article 172. Grounds for Expert Examination**

Expert examination shall be ordered in cases, when circumstances relevant to the case may be established by an expert examination to be conducted by a person skilled in science, technology, arts, or crafts. Possession of the said skills by an inquiry officer, investigator, prosecutor, judge, expert witnesses, or attesting witness shall not dismiss the necessity of ordering expert examination.

The matters to be examined by a forensic examiner and his opinion may not exceed the limits of his skills.

Substitution of expert examination with research beyond the procedures prescribed by this Code shall be prohibited. Availability of conclusions of departmental visitations, acts of inspections, consultancies shall not dismiss the necessity of ordering expert examination.

### **Article 173. Mandatory Appointment and Conduct of Expert Examination**

Appointment and conduction of an expert examination shall be mandatory to establish the following circumstances:

1. cause of death, or nature and heaviness of bodily injury;
2. fact of sexual intercourse, pregnancy, or abortion;
3. age of a suspect, accused, defendant, and victim, in case of unavailability or unreliability of the certificates thereof ;
4. mental and physical condition of a suspect, accused, defendant, or the person being prosecuted for compulsory medical measures; their abilities to realize and direct own actions at the moment of commitment of a crime, as well as their ability to realize their criminal liability, give a testimony and protect own rights and legal interests independently during criminal proceedings;
5. mental and physical condition of a victim and witness, and their abilities to apprehend, remember, and recall the facts relevant to the case at questioning, as well as ability of the victim to protect his rights and legal interests independently during criminal proceedings;
6. need and possibility to treat venereal or other infectious diseases, as well as chronic alcoholics m and drug addiction;
7. narcotic drugs and types thereof;
8. forgery of banknotes, securities, and other documents;
9. cause of explosions, accidents, and other emergencies.

Expert examinations shall also be mandatory for establishment of other circumstances, relevant to the case, which require special skills and have not been reliably established with other evidence.

### **Article 174. Persons Appointed as Forensic Examiners**

Expert examination shall be conducted by employees of forensic agencies or other state enterprises, institutions, organizations, or other skilled and experienced persons appointed by the inquiry officer, investigator, or court.

Forensic medical, psychiatric, psychological, technical, accounting, and criminological examination shall be conducted by employees of forensic agencies, and, in exceptional cases, by other state institutions. Exceptionality of the case shall be grounded in a resolution or finding on expert examination.

An order of inquiry officer, investigator, and court to summon the person appointed as forensic examiner, and on examination to be conducted thereby, shall be binding for the head of the employing enterprise, institution, or organization.

### **Article 175. Objects of Expert Examination**

The objects to be examined by a forensic examiner may be, as follows: physical evidence and samples for expert research; other physical objects, which may be of significance for evidence; human body; mental condition; corpse; documents.

Objects of expert examination, if their size and properties allow, shall be handed to the forensic examiner packed and sealed.

During examination, material objects may be damaged or used up only to the extent required for the examination. Upon the examination, these objects, if not used up completely, shall be returned to the inquiry officer, investigator, or court that ordered the examination.

Objects of expert examination shall be held in the premises of forensic agencies, inquiry and pretrial investigation bodies, prosecutor's office, and court in accordance with the rules for safekeeping physical evidence.

### **Article 176. Additional and Repeated Expert Examination**

An additional expert examination shall be ordered to fill in the blanks in the forensic examiner's opinion by the same forensic examiner or a different one assigned to conduct it.

Repeated expert examination shall be ordered in the instance of doubts about validity or accuracy of the examiner's opinion, or the evidence underlying the opinion have been recognized unreliable, or procedural rules of expert examination have been violated.

A forensic examiner assigned to conduct the repeated examination may challenge scientific validity of the examination methods having been applied previously.

The resolution or finding on repeated examination shall substantiate the disagreement with the opinion of the first expert examination.

Repeated examination shall be assigned to a different forensic examiner. The forensic examiner (or a committee of forensic examiners) that has performed the first examination may attend the repeated expert examination and give explanations, but may not participate therein or in drawing the opinion.

### **Article 177. Expert Examination by Committee**

Complex examinations may be conducted by a committee of forensic examiners in the same field. Forensic examiners may consult with each other and, after their opinions coincide, draw up a single opinion. In the event of difference of opinions, each of the forensic examiners shall draw up an individual expert opinion on the issues that caused difference of opinions.

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

If the expert examination has been assigned to a forensic agency, the head of this agency may conduct expert examination by committee.

Expert examination conducted, partially or fully, by persons who have not been included into the expert committee shall be prohibited.

#### **Article 178. Comprehensive Expert Examination**

If establishment a circumstance, relevant to the case, is possible only by several examinations conducted by examiners of different specialties, a comprehensive expert examination shall be assigned.

Forensic examiners shall, upon consideration of the facts established by them individually during the comprehensive expert examination, draw up a concluding opinion on the circumstance in question.

Each forensic examiner, participating in the comprehensive expert examination, irrespective of the amount of facts he established, shall independently conduct the examination, be responsible therefore, and draw up an opinion within the scope of his own competence. Each forensic examiner participating in the comprehensive forensic expert examination shall sign that part of the expert opinion, which is within the scope of his 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, and Defendant at Ordering and Conducting Expert Examination**

At the ordering and conducting of expert examination, suspect, accused person, and defendant shall have the right:

1. to get familiarized with the resolution or finding ordering forensic expert examination and request expounding of his rights, with the official record to be made thereof or note to be entered into the official record of court session;
2. to challenge the forensic examiner;
3. to request appointment of a forensic examiner from the specifically mentioned persons;
4. to pose additional question and to provide additional materials for the expert examination;
5. to be present, with the permission of the inquiry officer, investigator, and court, during conducting forensic expert examination, to require explanations from the forensic examiner on the main points of the research methods applied and results obtained, to give explanations to the forensic examiner;
6. to get familiarized with the forensic expert's report and to file motion for additional or repeated expert examination.

The above rights shall be also entitled to a person, being prosecuted on the matter of compulsory medical measures, if his mental health allows.

#### **Article 180. Resolution or Finding on Appointment of Expert Examination**

Expert examination shall be ordered by a resolution of an inquiry officer or investigator, or by a finding of a court, and indicate the following: grounds to order forensic expert examination; physical evidence and other objects that will be made available to the examination, with indication of where, when and under what circumstances discovered and seized; and during the expert examination on the case – data underlying the forensic examiner's opinion; questions posed to the forensic examiner; name of the forensic agency, and the last name of the examiner.

An expert examination may be assigned, if required, before the initiation of criminal case.

A resolution or finding ordering expert examination shall be binding for persons concerned.

#### **Article 181. Limits of Compulsion During Expert Examination**

Compulsory application of complex methods of 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 the person is under the age of sixteen or has mental disease – upon a consent of his legal representative or guardian.

#### **Article 182. Expert Examination by Forensic Agency**

An investigator, inquiry officer or court shall forward the resolution or finding on assignment of expert examination with the objects to be examined and, if required, the case file to the head of the forensic agency. If no forensic examiner is specifically mentioned in the resolution or finding, the head of the forensic agency shall appoint the examiner of the agency to conduct the examination. The inquiry officer, investigator, or the court shall be informed thereon.

The head of forensic agency shall hold the examination, ensure safety of the objects examined, and establish time limits of the examination. The head of forensic agency may engage other specialists, not employed by the forensic agency, only with the consent of the inquiry officer, investigator, or court that has ordered expert examination.

#### **Article 183. Expert Examination Outside Forensic Agency**

If the examination is conducted outside forensic agency, the investigator, inquiry officer, or court, after adopting a resolution or finding on expert examination, shall summon the person ordered to conduct the examination, establish his identity, competence, as well as his relations with the suspect, accused, defendant, and victim, and of grounds for disqualification.

The investigator, inquiry officer, or court ordering the examination, shall serve the resolution or finding thereon to the forensic examiner, expound him his rights and duties, as envisaged by Article 68 of this Code, and advise him of liability for refusal to draw up opinion as well as for an opinion known to be false. The statements and motions by the examiner shall be recorded in accordance with the same Article.

In case of rejection of the motion filed by the examiner, the inquiry officer, investigator, or court shall render a respective resolution or finding.

In case of necessity to examine physical or mental condition of a suspect, accused, defendant, victim, and witness, they shall be delivered to the examiner by the inquiry officer, investigator or court that ordered the examination.

#### **Article 184. Opinion of Forensic Examiner**

Upon the examination, the forensic examiner shall draw a written opinion in his own name and certifies it with his signature.

The opinion of the forensic examiner shall include: his last, first name, patronymic, background, his education, specialization, length of service, academic degree and/or academic title, and his position; notification of liability for refusal to draw up opinion as well as for an opinion known to be false; grounds to conduct forensic examination and time thereof; persons who were present during forensic expert examination; case papers studied by the forensic examiner; physical evidence, samples, and other objects examined, methods applied and reliability thereof; valid answers to the questions posed and the relevant circumstances established on the initiative of the forensic examiner.

The opinion of the forensic examiner may also indicate the causes and conditions of the crime, and provide technical recommendations for remedial measures to be taken.

The opinion of the forensic examiner shall be attached with physical evidence, samples and other objects, remaining after the examination, as well as photographs, schemes, and charts.

If, during the examination, insufficiency of the materials submitted to an forensic examiner or of the forensic examiner's special skills has been revealed, the opinion of the forensic examiner shall contain a founded refusal to answer the questions connected therewith.

#### **Article 185. Act on Impossibility to Draw Opinion**

In case of insufficiency of the materials submitted to a forensic examiner for expert examination, unavailability of additionally requested by him thereupon, or inadequacy of his own skills to solve the questions raised, he shall prepare a founded act on impossibility to draw an opinion, and address it to the head of forensic agency and the person, or body, that ordered the examination.

#### **Article 186. Questioning of Forensic Examiner**

If the opinion of the forensic examiner is unclear or has deficiencies that may be corrected without additional examination, or if it is necessary to clarify the methods applied, the inquiry officer, investigator or court may question the forensic examiner in compliance with the rules envisaged by Article 98-108 of this Code.

#### **Article 187. Evaluation of Opinion of Forensic Examiner**

The forensic examiner's opinion shall be evaluated by the inquiry officer, investigator, or the court, together with the other evidence on the case, in terms of scientific validity and compliance with all procedural rules established therefor.

Forensic examiner's opinion shall not have a prejudicial evidential force for the inquiry officer, investigator, or the court. Disagreement with the opinion shall be founded in a resolution or finding.

If a criminal case has involved several expert examinations and the forensic examiners have different opinions, the inquiry officer, investigator, or the court shall ground his agreement with some opinions forensic examiners and disagreement with the others.

### **CHAPTER 23. OBTAINING SAMPLES FOR EXPERT EXAMINATION**

#### **Article 188. Types of Samples and Methods for Obtaining Thereof**

An inquiry officer, investigator, or court may obtain samples that represent properties of a person, corpse, animal, and substance that may facilitate, through expert examination thereof, establishment of the issue.

Samples to be obtained from a person shall represent his individual features, as follows: biological (blood, hair, saliva, excreta), psychophysical (handwriting), anatomical (skin pattern prints, cast of teeth), as well as peculiarities of his voice and professional skills.

Material samples may be obtained for examination and by view of a corpse.

Samples of raw materials, products and other materials shall represent generic or individual physical or chemical characteristics of a substance.

During examination, the forensic examiner may make experimental samples of shells, bullets, instruments of break or burglary, other objects, and make a decision by comparison of experimental signs thereon.

#### **Article 189. Persons and Bodies Entitled to Obtain Samples**

Samples for expert examination may be obtained by an inquiry officer, investigator and court, with an engagement, if needed, of a medical or other examiner, or expert witness, except the cases, when baring of the person subject to sampling or specific professional skills are required.

By the order of the inquiry officer, investigator, or court, the samples for expert examination may be obtained by a medical examiner or other medical expert, when baring of the person subject to sampling or specific professional skills are required.

#### **Article 190. Persons Whose Samples May Be Obtained**

Samples for expert examination may be obtained from a suspect, accused, defendant, victim as well as a person being prosecuted on the

matter of compulsory medical measures.

If there are sufficient data to believe that the signs on the locale or the physical evidence have been left by other persons, samples for expert examination may be obtained from those persons.

#### **Article 191. Resolution or Finding on Obtaining Samples**

Obtaining samples shall be ordered by a resolution of an inquiry officer or investigator, or by a finding of a court, and indicate, as follows: the agency or person obtaining samples; the person whose samples shall be obtained; description of samples and their amount; time and agency, which the person shall address for obtaining samples from him; agency and time of presentation of the samples.

#### **Article 192. Limits of Compulsion during Obtaining Samples**

A suspect, accused, defendant, or victim, evading from obtaining sample from him may be subject to forcible appearance and obtaining samples, if the methods applied thereon are painless and not dangerous for his life and health.

Other persons may be subject to forcible sampling only in the cases envisaged in Article 190 of this Code, as well as for diagnostics of venereal and other infectious diseases.

#### **Article 193. Procedure for Obtaining Samples by Investigator, Inquiry Officer, or Court**

The inquiry officer or investigator shall summon the person or arrive to the place of the person's location, familiarize him, against his signature, with the resolution or finding on obtaining samples, expound rights and obligations to the person, as well as to the forensic examiner, expert witness, and resolve challenges, if available. After that, the investigator or inquiry officer shall conduct required actions and obtain samples for expert examination. During examination, only facilities that painless and not dangerous for life and health may be applied.

Obtaining samples from a corpse and seizure, as samples, of raw materials, products, other materials, shall be conducted through exhumation, seizure, or search respectively.

The samples obtained shall be packed and sealed. The investigator or inquiry officer shall forward the samples to the forensic examiner. If obtaining samples has been conducted on the finding of court, the inquiry officer or investigator, who enforced the finding, shall forward the samples to the court with the official record thereof. The court, with participation of the parties, shall view the samples, verify their authenticity and safety, and forward the samples along with the finding and the record to the forensic examiner.

#### **Article 194. Procedure for Obtaining Samples by Forensic Medical Examiner or Other Examiners**

An inquiry officer, investigator, or the court shall send the person with the resolution or finding on obtaining samples from him, to the forensic medical or another examiner. A challenge to a medical examiner or another examiner, or attesting witness shall be resolved by the investigator, inquiry officer, or the court, that rendered the respective resolution or finding.

The medical or another examiner shall conduct required actions and obtain samples for expert examination. At obtaining samples, only equipment that is painless and not dangerous for life and health may be applied. The samples shall be packed, sealed, and forwarded to the inquiry officer, investigator or court.

For obtaining samples of an animal, the inquiry officer, investigator, or the court shall send a respective resolution or finding to a veterinary or other examiner.

#### **Article 195. Obtaining Test Samples by Forensic Examiner**

During examination, the forensic examiner may produce test samples, as envisaged in Paragraph 4 of Article 188 of this Code.

The inquiry officer or investigator may attend production of the test samples, with entering a note thereof in the official record.

Upon the examination, the forensic examiner shall attach packed and sealed samples to the opinion.

The inquiry officer or investigator, or the court during legal proceedings, shall view the test samples presented by the forensic examiner and attach them to the case file as physical evidence.

#### **Article 196. Protection of Individual Rights During Obtaining of Samples**

Methods, scientific and technical facilities of sampling for expert examination shall be safe for life and health of a person. Complex medical techniques or methods inflicting strong pain may be allowed only upon a consent of the person subject to the expert examination, and if the person is under the age of sixteen or has mental illness – upon a consent of his legal representative or guardian.

If obtaining samples is conducted through baring, the medical examiner, forensic examiner, attesting witnesses shall be of the same sex with the person.

#### **Article 197. Official Record of Obtaining Samples**

The inquiry officer or investigator shall draw the official record on obtaining of samples and the court shall list the samples obtained in the official record of court session, according to Article 90-92 of this Code.

### **CHAPTER 24. PRESENTATION OF OBJECTS AND DOCUMENTS**

#### **Article 198. Presentation of Objects to Inquiry Officer, Investigator or Court on Initiative of Holders of Objects**

Physical persons, heads and other officials of enterprises, institutions, and organizations, shall have the right to present objects, which they deem to be essential to trial, to an investigator or to the court.

An inquiry officer, investigator, or the court shall be obliged to examine visually presented objects, as prescribed by the rules in Articles 136, 137, 139 and 140 of this Code, and to accept these objects, if they have found that the objects are essential to casework at the moment of their exhibition or at any moment in future. Objects which have been seized (such as weapons, narcotic drugs, pornographic editions, etc.) shall be also accepted for examination, even though such objects are found nonessential to the case.

If presented object is neither found relevant to the case, nor seized, an inquiry officer, investigator or the court shall return this object to the holder immediately upon viewing thereof.

#### **Article 199. Presentation of Objects at Request of Inquiry Officer, Investigator or Court**

An inquiry officer, investigator or court shall have the right to request heads of enterprise, institution, or organization, or other persons to present objects, which are necessary for temporary use of them for conducting investigative and judicial actions, without having recourse to a search or seizure. Such objects shall include:

1. analogues or dummies required to reproduce the setting and circumstances of certain event during an investigative experiment;
2. objects which are similar to the object presented for its identification;
3. devices, instruments, and materials, which are required to be applied during investigative or judicial actions, or forensic examination, if such devices, instruments, or materials are not made available to an inquiry officer, investigator, or court, or an expert witness, forensic expert, or forensic expert institution, acting upon instructions of an inquiry officer, investigator, or court.

#### **Article 200. Presentation of Documents to Inquiry Officer, Investigator or Court on Initiative of Holders of Documents**

Physical persons, heads and other officials of enterprises, institutions, and organizations, shall have the right to present documents, which are held or specifically drawn up by them on the basis of information that they have, to an inquiry officer, investigator, or court.

#### **Article 201. Presentation of Documents at Request of Inquiry Officer, Investigator or Court**

Physical persons, heads and other officials of enterprises, institutions, and organizations, shall be obliged to present documents, which are held or specifically drawn up by them on the basis of information that they have, at the request of an inquiry officer, investigator or the court.

Heads and other officials of enterprises, institutions, and organizations, shall be obliged, at the request of an inquiry officer, investigator, or court, to conduct inspection of documents or other administrative inspection within their powers and to submit a formal note thereof with the required documents attached within the set time limit.

In case of deviations from the set rules, lacunae, contradictions and other defects in the above or any other formal note, an inquiry officer, investigator or the court shall have the right to request to rectify the noted defects contained in a formal note.

#### **Article 202. Official Record of Presentation of Objects and Documents**

An inquiry officer or investigator shall execute an official record and a court shall make an entry to the official record of the court session about the presentation of objects and documents, which may be recognized as physical evidence, in accordance with the rules envisaged by Articles 90-92 of this Code.

The official record shall state:

1. Information about the person that presented an object or document;
2. This person's motion for inclusion of an object or document in the criminal case file;
3. The course and results of the examination of an object or document, and of the examination of the package when the object or document is delivered by mail;
4. Actual transfer of the object or document to an inquiry officer, investigator, or court, or the return thereof to the person who delivered the object or document.

An inquiry officer, investigator or court shall hand over a copy of an official record and the presiding judge shall hand over an excerpt form an official record of a court session to the person who presented the object or document, which is or may be recognized as physical evidence.

If an accepted object or document has been delivered by mail, a copy of an official record or an excerpt therefrom shall be sent to the sender, and post-office receipt shall be attached to the official record. In the instances when an inquiry officer, investigator, or court found that the object or document, received by mail, is not significant to the case and decided to return thereof to the sender by mail, also a post-office receipt shall be attached to the official record.

An inquiry officer or investigator shall render a resolution and a court shall render a finding about dismissal of a motion to include the presented object or document as physical evidence in the criminal case file. Formal notes of documentary inspection of any other inspection, as well as other documents presented as documentary evidence, shall be included in the criminal case file without specific processing.

Receipt and return of objects requested for temporary use for conducting investigative or judicial actions shall be processed as signed receipts which shall be executed by an inquiry officer, investigator, presiding judge, or secretary and the owner of the objects. If these objects may be of significance for the case, their identifying features and technical attributes shall be entered in an official record of investigative action, for conducting of which requested objects were used, or in an official record of a court session.

### **CHAPTER 25. INCLUDING OBJECTS AND DOCUMENTS IN CRIMINAL CASE FILE AS PHYSICAL AND DOCUMENTARY EVIDENCE**

#### **Article 203. Physical Evidence**

Physical evidence shall be an object that bear physical features or traces, which make it possible to ascertain its origin, possession by any

person, application and applicability for certain purposes, its transfer, exposure to certain objects, processes and events, and other features and traces pertaining to the circumstances of the criminal case.

#### **Article 204. Documentary Evidence**

Documentary evidence shall be a document or other record executed in a verbal, graphic or any other symbolical form, which is executed by an official or any other individual and is intended for keeping, transformation and transmission of information that may be of significance for the criminal case.

The official records of investigative actions or court sessions and appendices thereto shall also be recognized as documentary evidence.

Documents and other records, bearing the features and traces specified in Article 203 of this Code, may serve also as physical evidence.

#### **Article 205. Means to Obtain Physical and Documentary Evidence**

Objects, documents, and other records used as physical or documentary evidence may be obtained during the view of the locale of the offense or other site or premise, presentation for identification, physical examination, exhumation of corpse, obtaining samples for forensic examination, on-site verification of testimony, conducting seizure, search or experiment, or may be presented to an inquiry officer, investigator, or court in accordance with the procedures set by Articles 198-202 of this Code.

#### **Article 206. View of Physical Evidence**

Objects that are discovered, or seized, or received from other persons, shall be viewed immediately in accordance with the rules set by Articles 135-137, 139 and 140 of this Code.

In the course of viewing, the features, which give grounds to conclude on the relevance of an object to the criminal case and are necessary for the identification of its specific features, shall be identified.

The course and results of a view shall be entered in an official record of the investigative action, in conducting of which that object was obtained, or in an official record of a court session.

#### **Article 207. Recognizing Object as Physical Evidence and Inclusion Thereof to Criminal Case File**

An inquiry officer or investigator shall render a resolution and the court shall render a finding on recognition of an object as physical evidence and its inclusion to the criminal case file. The issue of retaining physical evidence to the criminal case file or forwarding the object for safekeeping shall be decided upon by the same resolution or finding.

#### **Article 208. Safekeeping and Forwarding Physical Evidence**

Measures to prevent loss, damage, diffusion contact, or confusion of physical evidence shall be taken when physical evidence is kept or forwarded for the purpose of forensic examination, or referral of a criminal case to another inquiry or investigation agency, or a prosecutor, or a court.

When a criminal case is referred, the physical evidence shall be listed in a covering letter or the inventory attached hereto. In addition to the above, each of all physical evidence included in the criminal case file shall be listed in a note attached to the indictment, with the reference to the place where it was discovered.

When physical evidence is delivered by post or by hand, an investigator or judge shall view delivered physical evidence with the participation of attesting witnesses, or, if necessary, of forensic examiners or expert witnesses, and compare it with the covering letter or inventory. An official record shall be executed and shall contain information about the course and the results of the view.

Physical evidence shall be kept until the issue of physical evidence decided and ascertained by a court sentence or finding that has taken legal effect, or by a resolution by an inquiry officer, investigator or prosecutor to dismiss criminal case. In the instances envisaged by Article 210 of this Code, the issues of physical evidence may be a decided on before the completion of proceedings in the criminal case.

When property right to an object included in the criminal case file is contended, it shall be examined by way of civil proceedings, and the object shall be kept until a court judgment on such civil case took legal effect.

#### **Article 209. Impoundment of Money, Securities, Foreign Exchange Assets and Jewelry**

Money, securities, foreign currency, jewelry and other items, made of precious metals, or their scrap, included in the criminal case file as physical evidence, shall be viewed with the participation of an expert witness, after they have been discovered, and transferred for safekeeping in accordance with the established procedure.

Money seized or accepted for the purpose of securing the civil suit, or kept as a bail, shall be transferred to the deposit account of an inquiry or investigation agency or a court not later than three days from the moment of seizure or acceptance thereof. *(As amended by the Law of 29.08. 2001)*

#### **Article 210. Decisions on Physical Evidence Made before Completion of Proceedings in Criminal Case**

After the execution of necessary investigative actions, the following types of physical evidence shall be returned without delay: perishable objects; objects that are necessary for everyday use; livestock, poultry and other animals that need care.

In the instances when legal a owner or holder of perishable objects, or livestock, poultry or other animals is unknown, or when it is impossible to return these items for any other reason, such perishable objects, or livestock, poultry, or other animals shall be transferred to the respective enterprises, institutions, or organizations which are to take care of them or use for certain purposes.

#### **Article 211. Decisions on Physical Evidence Made in Connection with Completion of Proceedings in Criminal Case**

The following rules shall be observed when deciding upon physical evidence with the indictment, or the finding or resolution of dismissal of a criminal case:

- 1) instruments of offense belonging to a suspect or defendant shall be confiscated or transferred to appropriate institutions, or destroyed;
- 2) seized objects shall be transferred to appropriate institutions or destroyed;
- 3) objects of no value shall be destroyed, but if there is a motion by interested persons or institutions they may be released to them;
- 4) money and other valuables, alienated from legal ownership as the result of a crime or other unlawful actions, shall be returned to their legal owners or their legal successors or heirs of the latter;
- 5) criminally acquired money and other valuables shall be transferred to the compensation for pecuniary damage caused by a crime or, when a person suffered pecuniary damage is not identified, to government revenue pursuant to the court sentence thereon;
- 6) documents constituting physical evidence shall remain in the criminal case file for as long as the latter is kept or shall be transferred to interested persons or institutions.

#### **Article 212. Liability for Damage to or Loss of Physical Evidence**

The cost of object, which is damaged or lost due to the execution of forensic examination or other legal actions, shall be included in judicial costs.

When rendering a sentence of conviction, the cost of an object shall not be reimbursed, if that object was owned by a convicted person or civil respondent; if the object was owned by another person, its cost shall be reimbursed to that person by a court and shall be recovered from a convicted person or civil respondent, with its transferring to government revenue.

When rendering a sentence of acquittal or dismissing a criminal case, the cost of an object, damaged or lost in the course of forensic examination or other lawful action, shall be reimbursed to a legal owner or his successors, or heirs, regardless of their procedural status.

In any other instances of damage or loss of physical evidence, the cost of physical evidence shall be reimbursed in accordance with the rules of the civil legislation on obligations ensuing from caused damage.

### **SECTION FOUR. PROCEDURAL COMPULSION**

#### **CHAPTER 26. GROUNDS AND LIMITS FOR RESTRICTIONS ON INDIVIDUAL RIGHTS IN CRIMINAL PROCEDURE**

##### **Article 213. Grounds for Applying Measures of Procedural Compulsion**

In the instances of and in accordance with the procedures set by this Code, an inquiry officer, investigator, prosecutor, and court shall have the right to apply measures of compulsion, if a participant of criminal proceedings impedes conducting investigative or judicial actions, fails to meet his obligations, or if it is necessary to suppress further criminal activities of a suspect or defendant and to secure the execution of a sentence.

##### **Article 214. Legality and Validity of Applying Measures of Procedural Compulsion**

Measures of procedural compulsion may be applied only if there exist grounds for their application and in accordance with the procedures set by law.

Except as otherwise envisaged by this Code, procedural compulsion shall be applied only with regard to an initiated criminal case and persons referred to in a resolution rendered by an inquiry officer, investigator, or prosecutor, or in a finding rendered by a court.

##### **Article 215. Treatment of Persons Apprehended, Taken into Custody or Committed to Medical Institution**

A person apprehended, held in custody, or committed to a medical institution for conducting a forensic examination shall enjoy the rights and have the obligations established by law, with limitations ensuing from the type of compulsion control over such person.

Inhumane treatment of a person apprehended, taken into custody, or committed to a medical institution shall be impermissible.

A person apprehended, taken into custody, or committed to a medical institution shall be provided with an opportunity to have meetings with the defense counsel in a one-on-one and confidential setting, to use legislative materials, to have paper and stationery for writing complaints, motions, and other procedural documents.

##### **Article 216. Rights and Obligations of Administration of Procedural Compulsion Facility**

The administration of a detention facility may monitor the correspondence of detained and arrested persons, except for complaints and applications addressed to an inquiry officer, investigator, prosecutor or court; examine parcels addressed to detained and arrested persons; conduct body search; conduct fingerprinting and photographing of detained and arrested persons; seize and keep valuables and objects which detained and arrested persons may not use in accordance with law; prevent communication between suspects or defendant on the same criminal case.

The administration of a detention facility shall be obliged to secure: required conditions for meeting and consultation with a defense counsel in a one-on-one and confidential setting; handing over of a copy of indictment, or sentence or finding rendered by a court to a detained person on the date of their rendering; submitting complaints, applications, and letters from a detained person not later than the next day after they are delivered to the administration; transfer of a person held in custody to a pretrial detention facility located in another place; immediate release of a detained person after the time limit of his detention has expired; notifying a head of investigation

agency or a prosecutor of approaching the deadline of time limits of detention and holding in custody in twelve hours and seven days respectively before expiration of the time limits. *(As amended by the Law of 15.04.1999.)*

#### **Article 217. Notification of Applying Measure of Procedural Compulsion**

Having applied detention, holding in custody, or commitment to a medical institution for conducting a forensic examination as a measure of procedural compulsion to a suspect or defendant, the inquiry officer, investigator, prosecutor, or court shall be obliged to notify a family member of the suspect or defendant of applying that measure not later than in twenty-four hours after the measure is applied, or, if the suspect or defendant has no family members, notify his relatives or intimate persons as well as the administration at the place of his employment or studies.

If a person detained, arrested, or committed to a medical institution, is a national of a foreign state, the Ministry of Foreign Affairs of the Republic of Uzbekistan shall be notified within the set time limit. A copy of the notification shall be attached to the criminal case file.

#### **Article 218. Measures to Take Care of Dependants of Detained Person, or Person Taken into Custody or Committed to Medical Institution**

If a person, detained or taken into custody or committed to a medical institution for conducting a forensic examination, has children under age, aged parents or other dependants, who are in need of care and help, an inquiry officer, investigator, prosecutor or court shall take measures to put them in the care of relatives or other persons or institutions, and, if a person under procedural compulsion has property or dwelling, secure safety of property and dwelling of that person.

#### **Article 219. Binding Nature of Prosecutor's Instructions concerning Imposing Measures of Procedural Compulsion**

Prosecutor's instructions concerning imposing measures of procedural compulsion shall be binding upon an inquiry officer and investigator. Objections to the instructions may be submitted to a higher prosecutor in accordance with the procedures set by Articles 36 and 39 of this Code.

### **CHAPTER 27. APPREHENSION**

#### **Article 220. Purposes of Apprehension**

Apprehension shall consist in short-time imprisonment of a person suspected of having committed an offense in order to suppress his criminal activities, to prevent his escape, concealment, or destruction of evidence.

Apprehension may be executed both before and after the initiation of a criminal case. In the latter instance, apprehension shall be admissible only pursuant to the resolution rendered by an inquiry officer, investigator or prosecutor or the finding rendered by a court.

#### **Article 221. Grounds for Apprehension**

A person suspected of having committed an offense may be apprehended only if there exist the following grounds:

1. the person is caught in the act of or immediately after committing the offense;
2. eyewitnesses, including victims, point at the person as the one who committed the offense;
3. manifest traces of the offense are found on the person's body or clothes, or with him, or in his dwelling;
4. there exists other information providing cause to suspect a person of having committed an offense, and if the person has attempted to flee, or has no permanent residence, or if the person's identity has not been ascertained.

#### **Article 222. Persons Having Right to Apprehend Suspect before Initiation of Criminal Case**

An officer of militia or any other inquiry agency as well as any legally capable person may apprehend and deliver a person suspected by him of having committed an offense to the nearest office of militia or any other inquiry agency, if there exist the grounds specified in Article 221 of this Code.

#### **Article 223. Persons Enjoying Immunity in the Matter of Apprehension**

Members of the national parliament and local representative bodies, judges, and prosecutors may not be apprehended and delivered to an office of militia or any other law-enforcement agency. This prohibitive provision shall not be applied to the instances of apprehension specified in Paragraph 1 of Article 221 of this Code.

#### **Article 224. Procedures of Apprehension before Initiating Criminal Case**

Having found, in person or by testimony made by eyewitnesses, that there exist one of the grounds for apprehension specified in Article 221 of this Code, a militia officer or any other authorized person or individual shall be obliged to inform a suspect that he is apprehended for having committed an offense and to demand him to proceed to the nearest office of militia or any other law enforcement agency. The person effectuating apprehension shall be obliged thereby to identify himself and produce his identity document at a demand of the person apprehended.

The authorized person effectuating apprehension may conduct body search or seizure, if there are sufficient causes to believe that the person apprehended has weapons with him or intends to get rid of evidence damning that he has committed an offense. An official record of body search or seizure may be executed after the apprehended person is delivered to an office of militia or any other law enforcement agency in the presence of attesting witnesses.

Authorized persons and individuals shall be subject to liability established by law for effectuating illegal or groundless apprehension or the excess of powers in the course of apprehension.

#### **Article 225. Execution of Official Record and Review of Validity of Apprehension**

Immediately after the apprehended person is delivered to an office of militia or any other law enforcement agency, a duty officer or some other officer, at the instruction of his head officer, shall execute an official record of apprehension that shall refer to: the information about the apprehended person and the person who effectuated the apprehension; the time of the apprehension; the circumstances of the apprehension; the grounds specified by law applicable to the apprehension; the offense of having committed which the apprehended person is suspected; the time of delivery of the apprehended person to the office of militia or other law enforcement agency. The official record shall be signed by the officer of militia or other law enforcement agency who is in charge of reviewing the validity of the apprehension, the authorized person or individual who effectuated the apprehension, the apprehended person, and attesting witnesses.

Review of the validity of apprehension, the discovery and view of documents shall be conducted no longer than within twenty-four hours from the moment of actual delivery of an apprehended person to an office of militia or any other law enforcement agency.

In the instance if apprehension is found to be invalid, a head officer of a militia unit or any other competent person shall render a resolution to release apprehended person. A copy of the resolution shall be submitted immediately to a prosecutor.

The resolution to apprehend, initiate a criminal case, and engage in a criminal case as a suspect, shall be announced immediately to a suspect who, simultaneously, shall be expounded to the rights envisaged by Article 48 of this Code. Familiarizing with the resolution and expounding the rights shall be processed with a note to that effect being entered in the official record, which shall be certified by the signatures of the authorized person and the apprehended person. The apprehended person shall be questioned no later than within twenty-four hours from the moment of the delivery.

#### **Article 226. Apprehension Period**

Apprehension period may not be longer than seventy-two hours from the moment of the delivery of the apprehended person to an office of militia or any other law enforcement agency.

Before expiration of the time limit of apprehension, the apprehended person shall be engaged in a criminal case as a defendant, brought with charges, questioned in accordance with the rules of Articles 109-112 of this Code, and decided upon in terms of imposing a measure of restraint in compliance with the rules of Articles 236-240 of this Code.

In exceptional cases, with the prosecutor's authorization, taking into custody may be applied to a suspect as a measure of restraint. The suspect shall be brought thereby with charges within ten days from the date of his apprehension. Otherwise, the imposed measure of restraint shall be withdrawn, and that person shall be released from custody. After the initiation of a criminal case and during the entire period of apprehension, an inquiry officer and investigator having jurisdiction over the criminal case may conduct investigative actions within their competence in order to establish the circumstances of committing the offense and to review the validity of apprehension.

#### **Article 227. Apprehension Pursuant to Resolution Rendered by Inquiry Officer, Investigator, or Prosecutor or Finding Rendered by Court**

Pursuant to the resolution rendered by an inquiry officer, investigator, prosecutor or the finding rendered by a court to apprehend a person and engage him in the criminal case as a suspect, an officer of militia or any other law enforcement agency shall be obliged to deliver immediately the apprehended person to the nearest office of militia or any other law enforcement agency, complying with the rules of Article 224 of this Code. The authorized person or the court that rendered respectively the resolution or finding to apprehend shall be immediately notified of the apprehension.

In the instance if an accused is in search, and there is no a resolution to take him into custody, a prosecutor of district (city) at the place of the apprehension may render the resolution to detain the accused for a period required delivering him to the venue of conducting investigation, but not longer than for ten days. Before rendering the resolution, the prosecutor shall be obliged to question the person to be detained.

The period from the moment of the actual apprehension of a suspect shall be included in the time limit of holding in custody and the term of punishment sentenced by a court on the basis of calculation rules set by Article 62 of the Criminal Code.

#### **Article 228. Detention Facilities**

After the apprehended person is delivered to a militia office or any other law enforcement agency, he shall be kept in office premises, which are not the places of confinement, or in the temporary detention facility, and the apprehended military serviceman shall be placed to a military detention facility.

As an exception, in some locations apprehended persons may be kept in the premises specifically designated for this purpose, and in the vessels the persons may be kept in the cabins specifically designated for this purpose.

In the penitentiary institutions, special cells for apprehended persons shall be arranged.

Keeping apprehended persons in isolation wards and penal isolation wards shall be inadmissible.

Apprehended persons shall be kept separately from the persons, who held in custody as a measure of restraint or sentencing their term pursuant to the court sentence. The apprehended persons suspected of having committed an offense shall be kept in the cells for apprehended persons in compliance with the following isolation requirements:

men shall be kept separately from women;

juveniles – separately from adults; in exceptional cases, with an authorization of a prosecutor, adults may be kept in the same cells with juveniles;

special dangerous recidivists – separately from the other persons.

Apprehended persons suspected of having committed the same offense shall be kept separately pursuant to the written instruction of an inquiry officer, investigator, or prosecutor. Pursuant to the written instruction of an inquiry officer, investigator, or prosecutor,

apprehended persons may be kept separately also on the other grounds.

#### **Article 229. Rights and Obligations of Detained Persons**

An apprehended person suspected of having committed an offense shall have the rights and obligations envisaged by Article 48 of this Code. Besides, the person may use his clothes, footwear, and other necessary items, the list of which shall be specified by law.

An apprehended person suspected of having committed an offense shall be kept in the conditions complying the sanitary and hygienic rules which shall be determined by the Ministry of Health of the Republic of Uzbekistan and the Ministry of Internal Affairs of the Republic of Uzbekistan.

Medical services for apprehended persons as well as treatment and prophylactic arrangements in detention facilities shall be organized and implemented in accordance with the law.

Apprehended persons shall be provided with meals, sleeping accommodation, and other necessary subsistence facilities free of charge and in compliance with the set standards.

#### **Article 230. Providing Meetings to Detained Persons**

Apprehended persons shall have meetings with their relatives and other persons only upon the written authorization of the administration of the respective detention facility, or investigator or inquiry officer who are in charge of the proceedings in the apprehension documents.

#### **Article 231. Procedure of Bringing Complaints and Applications by Detained Persons**

Complaints and applications submitted by apprehended persons suspected of having committed an offense and addressed to an inquiry officer, investigator, or prosecutor, shall be delivered to the latter.

Complaints and applications addressed to persons and agencies other than the abovementioned shall also be delivered to an inquiry officer, investigator, or prosecutor, who shall review the complaints and applications and then refer them to the respective person or agency. Complaints and applications brought against the actions and decisions by an investigator or inquiry officer shall be delivered to a head officer of the respective investigation agency or a prosecutor. Complaints and applications containing information, which, if communicated, may impede establishment of the issue, shall not be delivered to the respective person or agency, with a notification to that effect of the person, who brought a complaint or application, and a prosecutor.

#### **Article 232. Pecuniary Liability of Detained Persons**

Apprehended persons suspected of having committed an offense shall be subject to pecuniary liability for the damage, which they caused to the state during their staying in detention facilities in accordance with the procedure and amounts provided for by law.

#### **Article 233. Securing Order in Detention Facilities and Security Measures**

Securing order in the detention facilities for apprehended persons shall be incumbent on the administration of the detention facilities, which shall carry out its relevant activities in accordance with this chapter of this Code and the other legislative acts.

If apprehended persons suspected of having committed an offense show tumult behavior, resist physically to the officers of detention facilities, or commit any other acts of violence, for the purpose of preventing them from causing damage to other persons or themselves, they may be subjected to the use of handcuffs, with an official record executed to that effect. If necessary, such persons may be kept separately from the other apprehended persons in compliance with the procedures set by the internal regulations of detention facilities.

#### **Article 234. Grounds for and Procedures of Releasing Apprehended Persons**

An apprehended person suspected of having committed an offense shall be released, if:

- 1) the suspicion that the person has committed an offense has not been confirmed;
- 2) there exist no grounds for applying a measure of restraint in the form of custody to him;
- 3) if the period of apprehension has expired.

An apprehended person shall be released by the head officer of the respective detention facility pursuant to the resolution rendered by an inquiry officer, investigator, or prosecutor or the finding rendered by a court. The resolution or finding to release shall be served immediately upon its delivery to a detention facility.

Having found that there are no grounds for extending apprehension period, an inquiry officer and investigator shall be obliged to release immediately an apprehended person.

If a resolution rendered by a prosecutor, investigator, or inquiry officer to release an apprehended person or to take him into custody as a measure of restraint, or to extend the custody period does not arrive in detention facility within the time limit set by law, the head of the detention facility in which the apprehended person is held shall release him and notify the prosecutor, investigator or inquiry officer thereof.

If required, the administration of detention facility shall provide apprehended persons with means to return to their places of residence free of charge and hand over a certificate stating the time of being kept in detention facilities at a request from the persons.

#### **Article 235. Compensation for Damage Caused by Apprehension**

Damage caused to a person by illegal apprehension shall be compensated in full, if a sentence of acquittal is rendered later on the person concerned and the criminal case is dismissed on the grounds envisaged by Article 83 of this Code.

## CHAPTER 28. MEASURES OF RESTRAINT

### Article 236. Purposes of and Grounds for Applying Measures of Restraint

Measures of restraint shall be applied for the purpose of preventing the evading of a defendant from inquiry, pretrial investigation and trial, suppressing further criminal activities of defendant, preventing his attempts made to impede establishment of the issues and securing the execution of a sentence.

A ground for imposing a measure of restraint in the form of custody may be sufficient grounds to believe that the defendant will flee from inquiry, pretrial investigation, or trial for only the reason of dangerousness of the offense he has committed, provided for by Paragraphs 4 and 5 of Article 15 of the Criminal Code.

With regard to the persons to be committed to a medical institution for conducting a forensic examination as well as persons, who have been recognized as incapable or who, after committing an offense, have acquired mental disorder, measures of restraint may be applied in order to prevent escape and committing of other socially dangerous acts by such persons and also to secure the execution of the finding rendered by a court to apply medical compulsory measures.

### Article 237. Types of Measures of Restraint

the measures of restraint shall be the following: a recognizance to show good conduct; a personal surety; a surety of a public association or employer; bail; taking into custody; taking oversight of a juvenile; supervision over a military serviceman by a military command. Only one of the measures of restraint may be applied simultaneously to the person.

### Article 238. Circumstances Taken into Account in Imposing Measure of Restraint

When deciding upon the necessity of imposing a measure of restraint, an inquiry officer, investigator, prosecutor, and court shall take into account the seriousness of the charge brought, the information on the defendant's identity, his occupation, age, health condition, family status, and other circumstances, in addition to the grounds envisaged by Article 236 of this Code.

### Article 239. Persons Subject to Applying Measure of Restraint

A measure of restraint may be applied only to defendants, convicted persons and persons who have been recognized as insane or who, after committing an offense, have acquired mental disorder.

A measure of restraint in the form of taking into custody may be applied to:

- 1) a member of the Oliy Majlis (Parliament) of the Republic of Uzbekistan, of the Jokargy Kenes (Parliament) of the Republic of Karakalpakstan, and of representative bodies of region, district and city – in accordance with the procedures provided by law;
- 2) a judge of the Constitutional Court of the Republic of Uzbekistan, judges of the other courts of the Republic of Uzbekistan – with the consent of the Plenum of the Supreme Court or the Plenum of the High Economic Court respectively;
- 3) a prosecutor or investigator of prosecutor's office – with the consent of the General Prosecutor of the Republic of Uzbekistan.

### Article 240. Resolution or Finding to Apply, Withdraw or Alter Measure of Restraint

Measures of restraint may be applied, revoked, and altered by the resolution rendered by an inquiry officer, investigator, or prosecutor and by the finding rendered by a court.

The resolution or finding to apply, revoke, and alter a measure of restraint shall specify the following: the offense, which the person is charged with; reference to the grounds for imposing the measure of restraint in accordance with the law, or the lack or alteration of the grounds, with adducing the relevant proofs; arguments explaining the necessity of applying, revoking, or altering the measure of restraint in light of the circumstances, specified by law, which affect imposing a measure of restraint. The resolution or finding shall be immediately announced to the person with regard to whom it has been rendered, except for the cases when a serious disease or escape by the person impedes doing so.

### Article 241. Bringing Complaint against Measure of Restriction

The measure of restraint imposed in the course of pretrial investigation may be complained against to the prosecutor, who supervises the pretrial investigation, and who may revoke or alter the measure of restraint. The prosecutor shall be obliged to consider the complaint within three days from the moment of the receipt thereof and to notify the complainant of his decision.

### Article 242. Taking into Custody

Taking into custody as a measure of restraint shall be imposed with regard to criminal cases on the offenses punishable by imprisonment for a term exceeding three years and the unintended offenses punishable by imprisonment for a term exceeding five years in accordance with the Criminal Code.

In special instances, this measure of restraint may be imposed with regard to the criminal cases on the intended offenses punishable by imprisonment for a term less than three years and the unintended offenses punishable by imprisonment for a term less than five years.  
(As amended by the Law of 29.08.2001.)

### Article 243. Procedure of Applying Taking into Custody as Measure of Restraint

A measure of restraint in the form of taking into custody may be applied only to an apprehended suspect or a person engaged in the criminal case as a defendant. (As amended by the Law of 27.12.96.)

The right to authorize the detention of a person shall be entitled to the General Prosecutor of the Republic of Uzbekistan, Prosecutor of the Republic of Karakalpakstan, their deputies, prosecutors of region, Tashkent City, and the equal-status prosecutors and deputy prosecutors,

as well as prosecutors of districts (cities) and the equal-status prosecutors.

When deciding upon providing authorization to detention, a prosecutor shall be obliged to get familiarized thoroughly with all the materials of the criminal case file and, if necessary, to question a suspect or defendant in person, whereupon he shall conduct one of the following actions:

- 1) to authorize the resolution rendered by an investigator to impose taking into custody as a measure of restraint;
- 2) to apply a milder measure of restraint or to revoke applying a measure of restraint and release immediately an apprehended person.

#### **Article 244. Detention Facilities**

Defendants taken into custody as a measure of restraint shall be kept in the mass cells of investigation isolation wards. An inquiry officer, investigator, prosecutor or court may instruct the administration of an investigation isolation ward to keep the defendants charged with the same offense or several interconnected offenses in separate premises.

Pursuant to the resolution of a prosecutor or the finding of a court, detained persons may be held in custody in prison or solitary cell of investigation isolation ward, if they are charged of having committed serious and very serious offenses provided for by Paragraphs 4 and 5 of Article 15 of the Criminal Code. This measure of restraint shall not be applied to juveniles, persons over sixty years old, persons having severe illness, and persons with psychic disorders verified by a doctor. The in-prison conditions for the aforementioned persons shall not be different from the conditions in investigation isolation ward.

Persons held in custody may be kept in detention facilities for no longer than ten days. In the instance of impossibility to deliver detained persons to the investigation isolation ward on time, they may be kept in detention facilities for no longer than thirty days.

Military servicemen may be kept in military detention facilities for no longer than twenty days, and in remote locations – during the whole period when this measure of restraint is in effect. A period of keeping military serviceman in military detention facilities may be extended by military courts for the period of the trial of the criminal case, but no longer than fifteen days.

The convicted military servicemen to be sent to a disciplinary military unit may be kept in the military detention facilities until the sentence rendered on them takes legal effect.

A convicted person may be transferred from correction facility or the colony of execution of a sentence to an investigation isolation ward or may continue to be kept in investigation isolation ward after the sentence has taken legal effect, if he is a witness or victim in the proceedings in another criminal case. In this instance, the convicted person may be kept in the investigation isolation ward for no longer than three months – upon the authorization by a prosecutor of region or equal-status prosecutor, or for no longer than six months with the authorization by the General Prosecutor of the Republic of Uzbekistan.

A convicted person who is kept in another district or city shall be transferred to the proper venue of detention pursuant to the resolution by a prosecutor, or the resolution rendered by investigator, and authorized by a prosecutor, or the finding rendered by a court. Transferring the convicted person shall be incumbent on special units of the Ministry of Internal Affairs of the Republic of Uzbekistan. *(As amended by the Law of 27.12.1996.)*

#### **Article 245. Custody Period**

In conducting investigation of offenses, custody period shall not be longer than three months.

If it is impossible to complete an investigation and no grounds exist for altering the measure of restraint, the time limit may be extended by Prosecutor of the Republic of Karakalpakstan, or prosecutor of oblast or Tashkent City and equal-status prosecutors up to five months time limit.

further extension of the time limit may be authorized only by the Deputy General Prosecutor of the Republic of Uzbekistan – up to seven months time limit, and the Deputy General Prosecutor of the Republic of Uzbekistan – up to nine months time limit. In exceptional cases, only in view of the complexity of the criminal case under investigation, the time limit may be extended by the General Prosecutor of the Republic of Uzbekistan with regard to defendant charged of serious or very serious offenses – up to one year time limit. There shall be no further extension of the time limit. *(As amended by the Law of 29.08. 2001.)*

The materials of a criminal case whose investigation has been completed shall be presented to the defendant held in custody and his defense counsel for familiarization no later than one month before the expiration of the maximum custody period set by Paragraphs 2 and 3 of this Article. In calculating the time limit of custody as a measure of restraint, the period when defendant and his defense counsel familiarize with the materials of a criminal case shall not be included in the time limit.

#### **Article 246. Calculation of Custody Period When Criminal Case Is Remanded for Supplemental Investigation**

When a court remands the criminal case, for which the custody time limit of the defendant of that criminal case has expired, for supplemental investigation, a measure of restraint in the form of holding the defendant in custody may not be altered in view of the circumstances of the criminal case, extending the time limit of holding in custody by the prosecutor supervising over the investigation of the criminal case within a one month time limit from the moment of the entry of the criminal case in his supervision.

In extending the time limit, the period of holding the defendant in custody before referring the criminal case to the court shall be included in the time limit in accordance with the procedures and time limits provided by Paragraphs 1, 2 and 3 of Article 245 of this Code.

#### **Article 247. Procedure of Extending Custody Period**

No later than five days before the expiration of the custody period of a defendant, an investigator shall be obliged present the criminal case to the prosecutor having the right to extend thereof, together with the motion which shall refer to the reasons for extending the investigation, the possible versions and circumstances subject to verification, and the time limit extension requested.

Having familiarized himself with the criminal case and the motion filed by the investigator, the prosecutor having the right to extend the time limit of holding a defendant in custody shall authorize the extension of the time limit thereof, or alter, or revoke the measure of restraint. The prosecutor may examine the person in question of extending custody time limit prior to providing the authorization thereto.

The motion to extend the time limit of holding a defendant in custody and that to extend the time limit of investigation may be merged.

#### **Article 248. Compensation for Damage Caused by Illegal Holding in Custody**

Damage caused to a person as a result of illegal holding in custody as a measure of restraint shall be compensated in full if a sentence of acquittal is rendered later on the person concerned or the criminal case of that person is dismissed on the grounds envisaged by Article 83 of this Code. At this, the rules set by Section Seven of this Code shall be applied.

#### **Article 249. Bail**

Bail shall consist in money or valuables being deposited by a suspect or defendant, or their relatives, or other physical or legal person in the deposit account of a pretrial investigation agency. Immovable property may also be accepted as a bail.

An inquiry officer, investigator, or prosecutor shall execute an official record and a court shall make an entry to that effect in an official record of a court session. An official record shall refer to the fact that a suspect or a defendant has been expounded to their obligations specified in Article 46 of this Code and he assures that he do not violate thereof, and that a bailer is expounded that, if a bailed suspect or defendant violate the obligations, the bail shall be forfeited. An official record shall be signed by an official who accepted a bail, and a suspect or defendant.

The amount of the bail may not be less than a twentyfold minimum wage and shall be determined by an inquiry officer, investigator, prosecutor, or court imposing the measure of restraint, with due regard for the gravity of the charges, the suspect's or defendant's identity, the material status of the bailer and his relationship to a suspect or defendant.

When bail is applied, a bailer shall be expounded the nature of the suspicion or charge causing the measure of restraint to be imposed, a possible penalty with regard to the suspect or defendant, and the liability of a bailer. A bailer may refuse to meet these obligations only until the grounds for transferring the bail to government revenue appear.

A bailer may not refer to his inability to control the behavior of a suspect or defendant, with the exception of instances when a bailer has proved possible a force majeure result.

A bail shall be returned to a bailer, if the measure of restraint is altered not in connection with the violation of the provisions regulating the choice of a measure of restraint or dismissal of proceedings in the criminal case, or a court sentence that took legal effect.

In the instances when a suspect or defendant violates the obligations that he took, a bail shall be transferred to government revenue by the finding of a court, and a more severe measure of restraint shall be applied to a suspect or defendant.

#### **Article 250. Recognizance to Show Good Conduct**

A recognizance to show good conduct shall consist in the obligation executed by a suspect or defendant in writing, which he makes to an inquiry officer, investigator, prosecutor, or court in order to certify that he does not flee from an investigation agency or a court, impede establishing the issue of a criminal case, carry out criminal activity, and appear when summoned by an inquiry officer, investigator, prosecutor or court. A person who makes a recognizance to show good conduct shall also take the obligation not to leave the inhabited locality, where he stays at the moment of making that recognizance, without the permission of an inquiry officer, investigator, prosecutor, or court, and to report on change of his place of residence within that inhabited locality to an inquiry officer, investigator, prosecutor, or court.

In the instance when a suspect or defendant violate the obligations that they made, a more severe measure of restraint may be applied to that suspect or defendant, of which a suspect or defendant shall be advised when a recognizance is taken.

#### **Article 251. Personal Surety**

A personal surety shall be a written commitment by a trustworthy person to guarantee that a defendant will follow good conduct.

A number of surety providers shall be determined by an inquiry officer, investigator, prosecutor, court. In exceptional instances, a surety provider may be only one extremely trustworthy person.

A surety provider shall be expounded the nature of the suspicion or charge and his obligations and liability associated with the performance of the personal surety.

Surety providers shall be notified of the nature of charges causing the measure of restraint, the penalty, which a defendant may be sentenced to, and the liability of surety providers in the instance if the defendant commits actions, which are supposed to be prevented through applying a personal surety. This information shall be entered in an official record of personal surety, which shall be signed by an official who applies the measure of restraint, the defendant, and surety providers, or in the official record of a court session. Besides, each surety provider shall sign a statement of personal surety.

Surety providers may withdraw their obligations before the grounds for their liability emerge.

The surety providers may not refer to their inability to control the behavior of a defendant, with the exception of instances when they have proved possible a force majeure result.

In the instances when the defendant commits actions, which have been supposed to be prevented through applying a personal surety, the surety providers may be charged of liability set by law.

#### **Article 252. Surety of Public Association or Employer**

A public association or employer may decide on providing surety to a person engaged in a criminal case as a defendant.

The decision of a public association or employer shall be made in writing as a commitment that they guarantee good conduct of the defendant. The written commitment shall be handed over to an inquiry officer, investigator, prosecutor, or court that, if they admit the decision of the public association or employer, shall impose surety as a measure of restraint, with rendering of resolution or finding to that effect. Simultaneously, an official record shall be executed on expounding the nature of charges causing the surety to the public association or employer and expounding possibility of altering the measure of restraint and applying a more severe measure thereof in the instance if he fails to show good conduct.

In the instance if a defendant changes the place of his employment or residence, a public association or employer shall be obliged to communicate on this change to an inquiry officer, investigator, prosecutor, or court that imposed the measure of restraint. In the above instances, a public surety shall be reversed and may be altered to another measure of restraint.

If the defendant fails to show good conduct, the public association or employer may withdraw their surety.

#### **Article 253. Committing Juvenile under Supervision**

Committing a juvenile under the supervision of parents, guardians, or the administration of an institution for juveniles shall be executed in accordance with the procedure envisaged by Article 556 of this Code.

#### **Article 254. Supervision by Military Command over Behavior of Military Serviceman**

A defendant who is a military serviceman on active service or a reservist undergoing military training may be transferred under the supervision by the command of a military unit, forces, institution, or educational institution, pursuant to the resolution rendered by an inquiry officer, investigator or the finding rendered by a court.

The military unit command's supervision shall consist in taking measures envisaged by the legislation in order to ensure good conduct of a defendant.

The resolution rendered by an inquiry officer, investigator, or prosecutor and the finding rendered by a court on the application, withdrawal, or alteration of the measure of restraint shall be binding upon a military command which shall be expounded to the nature of charges causing the supervision over a military serviceman. In the instance if a defendant commits the actions to be prevented by the measure of restraint, a military command shall inform an inquiry officer, investigator, prosecutor or court of such actions committed by the defendant.

### **CHAPTER 29. SUSPENSION FROM OFFICE**

#### **Article 255. Grounds for Suspending Suspect or Defendant from Office**

An inquiry officer, investigator, prosecutor or court may suspend a defendant from his office, if there are sufficient causes to believe that, continuing to hold his office, a defendant will impede establishing the issue of a criminal case, compensation for damage caused by a crime, or continue to engage in criminal activities.

#### **Article 256. Resolution or Finding to Suspend Defendant from Office**

A decision to suspend a defendant from office shall be processed in a resolution rendered by an inquiry officer, investigator, or prosecutor or in a finding rendered by a court. The resolution rendered by an inquiry officer or investigator shall be authorized by a prosecutor.

The resolution or finding shall refer to the following: the name of a person suspended from office; the place of his employment; grounds for the suspension from office; the request to suspend the defendant from office addressed to an appropriate head of an enterprise, institution, or organization.

The resolution or finding to suspend a defendant from office shall be binding upon the head of an enterprise, institution, or organization, who shall execute the resolution or finding immediately upon the receipt of it and notify an inquiry officer, investigator, prosecutor, or court that made a decision to suspend the defendant from office, to that effect.

#### **Article 257. Term of Validity of Resolution or Finding to Suspend Defendant from Office**

A suspension of a defendant from office shall be revoked pursuant to a resolution of an inquiry officer or investigator when the application of the measure is no longer needed.

A decision of revoking suspension of a defendant from office shall be processed in a sentence of acquittal or finding rendered by a court to dismiss the criminal case.

#### **Article 258. Bringing Complaint against Resolution or Finding to Suspend Defendant from Office**

A defendant, suspended from office pursuant to a resolution of an inquiry officer, investigator, or prosecutor, as well as his defense counsel and legal representative, and the head of an enterprise, institution, or organizations, which employed the defendant, may bring complaint against the respective resolution to a higher prosecutor. Interested persons may bring an appeal to a higher court on the finding rendered by a court to suspend a defendant from office.

#### **Article 259. Suspension of Particular Categories of Officials from Office**

If an inquiry officer, investigator or prosecutor is prosecuted as a defendant, he shall be deemed to be suspended from office.

#### **Article 260. Compensation for Damage Caused by Illegal Suspension of Person from Office**

Damage caused to a person as a result of his illegal suspension from office shall be compensated in full if a sentence of acquittal is rendered later on the person concerned or the criminal case of that person is dismissed on the grounds envisaged by Article 83 of this

Code.

## CHAPTER 30. COMPULSORY APPEARANCE UNDER LAW ENFORCEMENT CUSTODY

### Article 261. Commitment to Appear When Summoned

Persons summoned by an inquiry officer, investigator, prosecutor or court in accordance with the procedures set by law in connection with the proceedings in the criminal case shall be obliged to appear strictly at the time designated.

If the persons fail to appear without valid reasons, they may be subjected to a compulsory appearance under law enforcement custody.

### Article 262. Persons Subject to Compulsory Appearance under Law Enforcement Custody

A compulsory appearance under law enforcement custody shall be applied in order to secure the participation of a suspect, defendant, victim, or witness, if it is discovered that they refuse to appear without valid reasons.

A compulsory appearance under law enforcement custody without prior summon may be applied to a suspect or defendant in the instances when the above persons evade from inquiry, preliminary investigation and trial or have no permanent place of residence.

A compulsory appearance under law enforcement custody of a defendant without prior ascertaining the reasons for his default at trial shall be admissible in exceptional cases, when the hearing of a criminal case is postponed due to the absence of a defendant and his whereabouts are unknown.

Applying compulsory appearance under law enforcement custody to a witness or victim shall not be legal excuse from liability for refusing to testify envisaged by law.

### Article 263. Resolution or Finding to Apply Compulsory Appearance under Law Enforcement Custody

An inquiry officer, investigator, or prosecutor shall render a resolution and a court shall render a finding ordering compulsory appearance under law enforcement custody. The resolution or finding shall refer to the following: the name, surname, and patronymics of the person subject to compulsory appearance under law enforcement custody; his procedural status; his place of residence or employment; the grounds for applying compulsory appearance under law enforcement custody; the time and the venue of compulsory appearance under law enforcement custody to be applied to that person; and the information about the officer who is assigned to conduct the compulsory appearance under law enforcement custody.

### Article 264. Execution of Resolution or Finding of Compulsory Appearance under Law Enforcement Custody

The resolution or finding of compulsory appearance under law enforcement custody shall be referred to an internal affairs agency in the venue of the proceedings in the criminal case for execution.

Having found the person subject to compulsory appearance under law enforcement custody, an officer of the internal affairs agency shall familiarize him with the resolution or finding of compulsory appearance under law enforcement custody, with that person's signature put to that effect, and deliver him to the inquiry officer, investigator, prosecutor, or court that rendered the respective resolution or finding. At this, an abstract of the time and place of finding the person and the time of his delivery, as well as of his applications, complaints, and motions against his compulsory appearance under law enforcement custody.

Having ascertained that it is impossible to effectuate compulsory appearance under law enforcement custody of that person for his escape, leave, detached service, grave illness, or other reasons, the internal affairs agency shall execute an abstract to that effect and notify thereof the inquiry officer, investigator, prosecutor or court that rendered the respective resolution or finding.

## CHAPTER 31. COMMITMENT OF PERSON TO MEDICAL INSTITUTION

### Article 265. Persons Subject to Commitment to Medical Institutions

If a necessity of in-patient supervision arises in the course of conducting a forensic medical examination or forensic psychiatric examination, an inquiry officer, investigator, prosecutor or court may commit a defendant to the appropriate medical institution, provided that he is charged with offence punishable by imprisonment.

Subject to commitment to a psychiatric institution for conducting an examination may also be a person whose mental condition precludes engaging him as a defendant and bringing with charges, if there exist sufficient proofs that namely that person has committed a socially dangerous act.

If the time limit of being of the person as a suspect expired before expiration of the time limit of in-patient forensic psychiatric examination, that person shall be brought with charges, if his mental condition allows doing so, or released from a medical institution, or recognize him, by rendering a resolution, as a person who is being subjected to the proceedings in applying compulsory medical measures render.

A victim and witness may not be committed to a medical institution as a compulsory measure, except for the instances when they expose a suspect or defendant guilty of committing a serious or very serious offense envisaged by Paragraphs 4 and 5 of Article 15 of the Criminal Code and there is no other opportunity to verify their testimony.

### Article 266. Resolution or Finding to Commit Person to Medical Institution

Commitment of a person to a medical institution shall be conducted pursuant to the resolution rendered by an inquiry officer or investigator and authorized by a prosecutor, the resolution by a prosecutor, or the finding by a court.

The resolution or finding to commit a person to a medical institution shall refer to the following: information about the person to be committed to a medical institution and his procedural status; the name of the medical institution whereto the person to be committed;

when necessary, the order to transfer the person to the said medical institution; and the decision on the measure of restraint.

#### **Article 267. Measures of Restraint Applied in Committing Person to Medical Institution**

When a defendant or person, who is subjected to the proceedings in applying compulsory medical measures, is committed to a medical institution, a measure of restraint in the form of holding in custody may be imposed on the said persons, if the medical institution has facilities to hold in custody. In other instances, the measure of restraint may be revoked or altered to a more severe one.

The custody period shall include the period during which a defendant or person, who is subjected to the proceedings in applying compulsory medical measures, stays committed to a medical institution.

#### **Article 268. Time Limit of Staying Committed to Medical Institution**

A defendant or person, who is subjected to the proceedings in applying compulsory medical measures, may be committed to a medical institution for no longer than one month.

In exceptional cases, the above time limit may be extended by a resolution of prosecutor or a finding of the court in charge of proceedings of the criminal case up to a one-month time limit. There shall be no further extension of the time limit.

#### **Article 269. Bringing Compliant against Resolution or Finding to Commit Person to Medical Institution**

A person committed to a medical institution for conducting a forensic examination, his defense counsel and legal representative may bring complaint against the resolution to commit to a medical institution, rendered by an inquiry officer, investigator, or prosecutor, to a higher prosecutor, and the respective finding rendered by a court – to a higher court.

### **CHAPTER 32. ENSURING SECURITY OF PARTICIPANTS OF PROCEEDINGS. LIABILITY FOR VIOLATION OF PROCEDURAL OBLIGATIONS AND ORDER DURING INQUIRY, PRETRIAL INVESTIGATION AND COURT SESSIONS**

#### **Article 270. Ensuring Security of Participants of Proceedings in Criminal Case**

If there exist sufficient information that a victim, witness or other participants in criminal proceedings or their relatives, are facing threats of murder, violence, or destruction of or damage to their property, or other unlawful actions, the inquiry officer, investigator, prosecutor or court shall take security measures to protect the lives, health, honor, dignity, and property of the said persons and to ascertain and prosecute persons guilty of the threatening to the said persons.

An inquiry officer, investigator, prosecutor, or court may assign in writing internal affairs agencies to take all necessary measures in order to protect the lives, health, honor, dignity, and property of the persons participating in criminal proceedings.

The internal affairs agency shall be provided with information about the endangered persons, the possible nature, sources, place and time of the threats and other relevant circumstances.

#### **Article 271. Liability for Violation of Procedural Obligations**

Participants of the criminal proceedings, who have committed offenses against justice in the course of the proceedings in the criminal case, envisaged in Articles 230-241 of the Criminal Code, shall be prosecuted complying with the general rules of this Code.

Besides, the following persons may be brought to liability envisaged by law for violation of procedural obligations:

Victims and witnesses – for refusing to fulfill legal requirements of an inquiry officer, investigator, prosecutor, and court to undergo physical examination, forensic examination, or to provide samples for conducting a forensic examination;

Persons who subjected to seizure or search and persons whose property is attached (except for a defendant and suspect and their immediate relatives) – for refusing to present an object in search at the demand of an inquiry officer, investigator, or prosecutor;

Officers of communications office – for failure to execute the resolution by an inquiry officer, investigator, or prosecutor to impound postal and telegraph correspondence or for improper execution thereof;

Officials and other persons – for impeding to conduct viewing of the locale of the offense, investigative experiment, exhumation of corpse, seizure, or search;

Participants of criminal proceedings – for disclosure of information pertaining to inquiry or pretrial investigation, if they have been warned by an inquiry officer, investigator, or prosecutor on the inadmissibility to disclose thereof;

Heads of enterprises, institutions, and organizations – for impeding to appearance of suspects, accused persons, defendants, witnesses, expert witnesses, translators/interpreters, victims, civil plaintiffs, civil respondents, their legal representatives, public accusers, public defenders, people's assessors, when the aid persons are summoned by an inquiry officer, investigator, prosecutor or court, as well as failure to execute the resolution of an inquiry officer, investigator, or prosecutor or the finding of particulars of a court to take remedial measures for offenses or improper execution thereof. *(As amended by the Law of 30.08.1997.)*

#### **Article 272. Liability for Violation of Order in Courtroom**

A person being present in a courtroom, who violates order at a court session or does not obey orders of the presiding judge, or shows disrespect to the court, shall be advised of ordering him out of the courtroom, if he commits such act repeatedly, and the person specified in Paragraph 4 of this Article shall be advised, additionally, of his administrative liability. If the advise did not result in proper conduct of the said persons, a participant of trial proceedings by the finding of court – and the other participants by an order of the presiding judge – shall be removed from the courtroom. Conducting of the court session shall be continued in absence of the persons removed from the courtroom.

If this finding is rendered on an accuser or defense counsel, the hearing of the criminal case shall be postponed, except for the instances

when several accusers or defense counsels have executed prosecution or defense respectively of the same person from the moment of commenced of the hearings. A court shall render a finding of particulars on impermissible conduct of an accuser or defense counsel who have been removed from the courtroom, with forwarding the finding of particulars to a higher prosecutor or a bar qualification commission respectively. *(As amended by the Law of 30.08.1997.)*

If a defendant has been ordered out of the courtroom, a sentence shall be announced in his presence or announced to him against a signed receipt immediately of the adjudication thereof.

A person ordered out of the courtroom (except for a defendant, accuser, and defense counsel) may be brought to administrative liability by the presiding judge pursuant to his finding rendered *in situ*. The finding shall be entered in the official record of a court session.

#### **Article 273. Actions of Court to Bring to Liability for Violation of Procedural Obligations in Courtroom**

If the grounds for bringing a participant of the criminal proceedings to criminal liability for committing an offense against justice have been found in the course of trial or examination of a criminal case by way of cassational or supervisory procedure, a court shall initiate a criminal case with regard to the participant and refer the criminal case to a prosecutor for investigation.

#### **Article 274. Procedures for Deciding on Recovery of Pecuniary Penalties and Fines by Court**

In the instances envisaged by this Code, pecuniary penalties and fines shall be recovered by the court that has jurisdiction over the respective criminal case. If violation of procedural obligations or order has been committed immediately in the course of the court session, the finding to recover a fine shall be rendered by the court examining the respective criminal case in the course of the same court session.

In other instances, the issue of recovering pecuniary penalty shall be decided upon by the court with summoning of the person whom a pecuniary penalty may be recovered from. That person's failure to appear without valid reasons shall not preclude the examination of the criminal case.

The official record of the violation, executed by an inquiry officer, investigator, or prosecutor, and the materials attached thereto, or an appropriate abstract from the official record of the court session shall be announced in the court session. Afterwards, explanations of the person who is being brought to liability and a prosecutor's opinion, if the latter participates in the court session, shall be heard out, with a finding to be rendered to that effect.

The court that has rendered a finding to recover a pecuniary penalty from a translator/interpreter, expert witness, or surety provider, or to recover a fine from the person who has violated order in the courtroom may defer execution of the finding for up to a three months term.

### **SECTION FIVE. COMPENSATION FOR PECUNIARY DAMAGE CAUSED BY CRIME**

#### **CHAPTER 33. CIVIL SUIT IN CRIMINAL PROCEEDINGS. OTHER PECUNIARY PENALTIES**

#### **Article 275. Civil Suits Considered in Criminal Proceedings**

Civil suits filed by physical and legal persons to compensate pecuniary damage caused by offense or a socially dangerous act committed by an insane person and also to reimburse expenses for the funeral or in-patient treatment of a victim and amounts paid to him as a insurance indemnity shall be examined in criminal proceedings.

Jurisdiction over a civil suit shall be determined by the jurisdiction over the criminal case in the proceedings in which the civil suit is filed.

#### **Article 276. Filing Civil Suit**

The person, who deems that he suffered pecuniary damage caused by offense or socially dangerous act committed by an insane person, or his legal representative may file a civil suit from the moment of the initiation of a criminal case up to the commencement of the judicial investigation thereof.

In case of the death of the person whose property has been lost or damaged as a result of offense or a socially dangerous act committed by an insane person, the heirs of that person shall be entitled to file and proceed with a civil suit in the course of criminal proceedings.

A civil suit may be filed in a written or oral form. Oral plaint note shall be entered in the official record.

When filing, considering of, and deciding upon a civil suit in criminal proceedings, the state duty shall not be charged.

The person who has not filed a civil suit in criminal proceedings as well as the person whose civil suit has been left without consideration may file the civil suit by way of civil proceedings.

#### **Article 277. Recognition as Civil Plaintiff**

In the instance of filing a civil suit, having concluded on the basis of the criminal case file that the committed act caused pecuniary damage to the said person, an inquiry officer or investigator in a resolution and a court in a finding shall recognize that person as a civil plaintiff. A copy of the resolution or finding shall be served on the person who filed the civil suit or his legal representative. At this, the civil plaintiff shall be expounded the rights and obligations envisaged by Article 57 of this Code, and the person who was denied to be recognized as a civil plaintiff shall be expounded the procedures for bringing complaint against that decision.

#### **Article 278. Engaging in Case as Civil Respondent**

Having recognized a claimer as a civil plaintiff, and having ascertained that other persons are liable by law for pecuniary damage caused by a defendant or the person who is decided upon the issue of applying a compulsory medical measure, an inquiry officer or investigator in resolution and a court in a finding shall engage the respective physical or legal person in the criminal case as a civil respondent. The resolution or finding shall be announced to the civil respondent or his legal representative. At this, the said persons shall be expounded their rights and obligations envisaged by Articles 59 and 63 of this Code.

### **Article 279. Filing and Proceeding with Civil Suit by Prosecutor**

A prosecutor shall be obliged to file or proceed with a civil suit filed or raise objection thereto, if it is required to protect public or general interests and the rights and lawful interests of individuals.

### **Article 280. Applying Rules of Civil Procedure Law in Criminal Proceedings**

Proceedings in civil suit in the course of inquiry, pretrial investigation, and court sessions shall be conducted in accordance with the procedures envisaged by this Code. If procedural relationships emerging in connection with a civil suit are not regulated by this Code, the rules of civil procedure legislation that do not run contrary to the principles of criminal proceedings shall be applied.

### **Article 281. Applying Rules of Grounds, Conditions and Ways of Compensation for Damage. Limitation of Action**

In proceedings in civil suit, the grounds, conditions, amount, and way of compensation for damage shall be determined in accordance with the rules of the civil, labor, and other legislation.

Limitation periods set for other areas of legislation shall not apply to a civil suit in criminal proceedings.

### **Article 282. Consequences of Recognition of Suit, Amicable Agreement of Parties to Case, and Withdrawal of Suit**

Recognition of suit by a defendant or civil respondent, as well as the statement of amicable agreement by a defendant or civil respondent, shall not entail dismissal of proceedings in the civil suit and shall not dispense an inquiry officer or investigator from his duties to examine carefully, thoroughly, comprehensively, and impartially the circumstances pertaining to the civil suit, and a court – from its duties to examine and decide upon the civil suit.

Acceptance of the denial of the civil suit shall entail dismissal of the proceedings in the civil suit and deprive the civil plaintiff of the right to claim repeatedly to the same person and on the same grounds by way of both criminal and civil proceedings.

### **Article 283. Court Sentence and Finding in Part Pertaining to Civil Suit**

When entering a sentence of conviction as well as rendering a finding to apply or a compulsory medical measure or not to apply it in the instance when a person is not socially dangerous as regards the action he has committed and his mental condition, a court shall grant the suit in full or in part, or deny it, depending on the proof of its grounds and amount.

When entering a sentence of acquittal, as well as rendering a finding to dismiss the proceedings in applying a compulsory medical measure, a court shall deny the suit, if:

- 1) there is lack of offense or socially dangerous act;
- 2) non-implication of a person, who was decided upon about the issues applying a compulsory medical measure, in commission of an offense or socially dangerous act is ascertained;
- 3) actions that have entailed pecuniary damage have been committed by a defendant or a person, who was decided upon about the issues applying a compulsory medical measure, in a state of defense within justifiable limits.

In the instance if a defendant is acquitted in view of that the act committed by him is not recognized as a crime and also in the instance of the dismissal of the proceedings in applying compulsory medical measures on the grounds other than envisaged by Paragraph 2 of this Article, a court shall grant the civil suit in full or deny it, depending on the proof of its grounds to the court and its amount.

When granting the civil suit, a court may exceed the limits of civil plaintiff's claim if the amount of the claims does not affect classification of the offense and sentence of the guilty.

Denial of the civil suit filed in the course of criminal proceedings shall deprive the plaintiff of the right to file suit to the same person and on the same ground by way of civil proceedings.

### **Article 284. Transferring Instruments of Crime to Government Revenue**

Property that has been an instrument of offense, if it is not subject to return to the previous proprietor, shall be transferred to government revenue pursuant to a sentence of court. If the property has not been discovered, the cost of the property shall be recovered to government revenue pursuant to a judgment of court rendered by way of civil proceedings or, in the instance when the criminal case has been dismissed, by the sentence rendered by court.

### **Article 285. Deciding on Further Ownership of Criminally Acquired Property**

Money, objects, and other valuables, acquired by a defendant with criminally obtained funds, shall be used to compensate for pecuniary damage he caused, and the amount exceeding thereof shall be transferred to government revenue pursuant to a sentence of court.

If property that has been used as an instrument of offense is discovered, seized from third persons, and returned to its legal owner, the money, objects, and other valuables, acquired by a defendant by way of selling that property, shall be transferred to government revenue pursuant to a sentence of court. A bona fide purchaser of the property returned shall be expounded to the right to file a civil suit against the convicted for compensation of damage caused by seizure of the property.

### **Article 286. Execution of Criminal Sentence in Part Pertaining to Civil Suit and Other Pecuniary Penalties**

In the instance when a civil suit is granted, the sentence and finding on the part pertaining to the civil suit to apply compulsory medical measure, as well as on the part pertaining pecuniary penalties, shall be executed in accordance with the procedures envisaged by the civil procedure law.

## **Article 287. Return of Lost Property**

Property of a victim or legal entity lost as a result of crime and recognized as physical evidence shall be subject to return to its owner. In case of death of a victim, the property shall be transferred to his heirs, and the property of a liquidated legal entity shall be transmitted to its successor.

The property, the owner of which has not been established, shall be transferred to government revenue.

Property shall be returned or transferred to government revenue pursuant to a sentence that has taken legal effect or a finding to apply a compulsory medical measure, or to a resolution rendered by an inquiry officer or investigator or a finding rendered by a court – if the criminal case has been dismissed.

## **Article 288. Deciding upon Transmission of Property in Claiming for Compensation for Property Cost**

If proprietor or legal owner of the property lost as a result of a crime and recognized as a physical evidence in the criminal case, filed relinquishment thereof and claimed a civil suit for the damage, a court, having recognized the relinquishment as valid and having granted the civil suit, shall transmit the property to the convicted or the civil respondent.

In the instance when relinquishment of the property is recognized as invalid, a court shall deny the civil suit, or grant it in part, recovering the amount that includes the cost of repair and reimbursement for detriment of vendibility of the property in the favor of the victim or the civil respondent. Acquisition and depreciation costs and the amount to be reimbursed for detriment of vendibility of the property shall be calculated with participation of an expert witness, and the cost of repair shall be calculated on the basis of the written statement of the enterprise that performs the repair.

## **Article 289. Seizure and Forfeiture of Property of Victim and Other Persons**

If property that may not be privately owned is recognized as a physical evidence in the criminal case, depending on whether its owner has acquired the property legally or illegally, the property shall be seized or forfeited, that is, transmitted by a court to the respective governmental body or legal entity, which is entitled to own, use and dispose such property, lucratively or gratuitously.

# **CHAPTER 35. ENSURING EXECUTION OF SENTENCE IN PART PERTAINING TO PECUNIARY PENALTIES**

## **Article 290. Attachment of Property**

In order to ensure execution of a sentence in its part pertaining to a civil suit and other pecuniary penalties, an inquiry officer, investigator or court shall attach the property of a suspect, accused, defendant and civil plaintiff. *(As amended by the Law of 29.08. 2001.)*

Attachment may not be applied to habitable premises, apartment, housewares, clothes and other objects, which are necessary to support acceptable subsistence of the family of a suspect, accused, defendant and civil plaintiff.

In the instances when habitable and inhabitable premises, regardless of the form of their ownership, were used to commit offenses – high treason, attempts to the constitutional order, President of the Republic of Uzbekistan, terrorism, and sabotage, or when such offences committed are connected with murder, robbery, or other grave or very grave crimes – attachment shall be applied to the premises. *(As amended by the Law of 15.04. 1999.)*

Attachment of property shall consist in a ban for the proprietor or the owner to dispose of, and, when necessary, to use the property, or a seizure of property and transfer thereof for a safekeeping to other persons.

Property shall be attached pursuant to the resolution rendered by an inquiry officer or investigator, or the finding rendered by a court that may assign conducting this investigative action to an investigation agency. *(As amended by the Law of 27.12.1996.)*

The resolution or finding to attach property shall refer to the following: the person who rendered the resolution or finding; the time and the date of the rendering; the criminal case underlying the resolution or finding; the purposes of attaching property; the owner or holder of the property; and, when property shall be attached in order to ensure a civil suit, the amount of cost of the property.

In the instance if an inquiry officer or investigator fails to take measures in order to ensure execution of a sentence in part pertaining to pecuniary penalties or measures of pecuniary penalties, the court that is in charge of the proceedings in the case shall bind over the inquiry officer or investigator to take such measures.

When the civil suit is granted or other pecuniary penalties are applied, a court may render the finding to take measures ensuring execution of a sentence in this part before the sentence has taken legal effect, if the measures have not earlier been taken.

When attachment is applied to the property located in the premises of diplomatic representations and representatives thereof, the rules envisaged by Article 165 of this Code shall be complied with.

## **Article 291. Official Record of Attaching Property**

An inquiry officer, investigator, prosecutor, or court shall execute an official record of attaching property in the presence of at least two attesting witnesses complying with the requirements set by Articles 90-92 of this Code. The official record shall refer to each item of property attached with indication of its name, measure, weight, depreciation, and other specific features, statements on the actions by the person attaching the property and third-person ownership of the property entered in the official record. In the instances if property is seized, the official record shall refer to the items, the person, and the place of transferring the attached property.

If during attaching property attempts were made to hide, destroy, or damage the property, such attempts shall be referred to in the official record, with indication of remedial measures that have been taken by an inquiry officer or investigator.

## **Article 292. Mandatory Serving Copy of Official Record of Attaching Property**

A copy of an official record of attaching property shall be served on the person subject to attachment of property, or one of adult members of his family, or, in the case of lack of these persons, to a representative of the self-government body of the territory whereat the property was attached.

In the instance if property was attached within the territory of an enterprise, institution, organization, or diplomatic mission, a copy of the official record of attaching property shall be served on a representative of the administration of the respective entity or diplomatic mission against his signed acknowledgment.

#### **Article 293. Assessment of Property Attached**

Property attached shall be assessed by an inquiry officer or investigator at the current market prices as at the moment of conducting assessment, with depreciation cost included. When necessary, the assessment shall be conducted with participation of an expert witness.

Money, bonds, cheques, shares, and other securities shall be assessed at par.

When attaching the property, the cost, which is sufficient to compensate for damage caused, shall be entered in an official record in order to secure execution of a sentence in its part pertaining to a civil suit. The owner or holder shall indicate thereby the property, which must be entered in the official record, in his opinion.

#### **Article 294. Seizure and Safekeeping of Property Attached**

Property attached may be seized and transferred to a representative of a self-government body or other organization for safekeeping.

Property attached shall be transferred to the property owner or holder, or an adult member of his family, who shall be expounded to the liability for keeping the property safe provided by law, with a signed statement to that effect being taken from the abovementioned persons.

In any instance, prohibited objects shall be seized. A procedure for safekeeping prohibited objects shall be determined by law.

Money deposits, public bonds, shares, and other securities, lodged with banking institutions, shall not be seized, however, transactions in the abovementioned property shall be terminated upon the receipt of the resolution or finding to attach the property.

#### **Article 295. Revocation of Attachment of Property**

In the instances when a sentence of acquittal has taken legal force, a criminal case has been dismissed, a civil plaintiff has withdrawn his civil suit, or in other instances when the grounds for ensuring the civil suit have been removed, attachment of property shall be revoked. *(As amended by the Law of 29.08.2001.)*

### **SECTION SIX. REMEDIAL MEASURES**

#### **CHAPTER 36. REMEDIAL MEASURES**

#### **Article 296. Obligation to Identify Reasons for Crime and Conditions Causing Crime**

In the course of proceedings in the criminal case, an inquiry officer, investigator, prosecutor, or court shall be obliged to identify the motivation for crime and conditions causing a crime.

#### **Article 297. Representation to Apply Remedial Measures by Inquiry Officer, Investigator, Prosecutor or Court**

Having found during the investigation of a criminal case that the reasons for crime and conditions causing thereof, an inquiry officer, investigator, or prosecutor shall submit a representation on the measures to be taken to eliminate the abovementioned reasons and conditions to the respective governmental body, self-government body, public association, employer, or official. A copy of the representation shall be included in the criminal case file.

#### **Article 298. Court's Finding of Particulars to Apply Remedial Measure**

Having identified the reasons for crime and conditions causing crime during the examination of a criminal case, a court shall render a finding of particulars in order to request that appropriate governmental bodies, self-government bodies, public associations, employers, or officials take remedial measures for the offense.

#### **Article 299. Obligation to Meet Representation and Finding of Particulars**

A governmental body, self-government body, public association, employer, or official, to which or whom a representation or a finding of particulars on remedial measures has been submitted, shall be obliged to take necessary measures with notification appropriate investigator, prosecutor, or court of the results to that effect no later than in a month.

In the instance of failure to meet or indiligent meeting the representation or finding of particulars, heads of enterprises, institutions or organizations, who fail to meet properly the representation or finding of particulars, shall be charged as prescribed by law.

#### **Article 300. Representation and Finding of Particulars on Excellent Performance of Public Duty**

An inquiry officer, investigator or prosecutor in a representation and court in a finding of particulars may notify a head and staff of appropriate enterprise, institution or organization of the high civic consciousness, courage of a person and his excellent performance of public duty in the prevention or detection of a crime.

### **SECTION SEVEN. REHABILITATION**

#### **CHAPTER 37. GROUNDS FOR AND CONSEQUENCES OF REHABILITATION**

### **Article 301. Grounds for Rehabilitation**

Grounds for rehabilitation shall be a sentence of acquittal and the circumstances envisaged by Article 83 of this Code.

### **Article 302. Pecuniary and Other Consequences of Rehabilitation**

A rehabilitated person shall have the right to compensation for the pecuniary damage and elimination of consequences of the moral damage, caused by unlawful apprehension, detention as a measure of restraint, and suspension from his office as a result of engaging him as a defendant in proceedings in a criminal case or unlawful commitment to a medical institution.

In the aforementioned instances, the rights of the rehabilitated person to employment, pension, housing, and other rights envisaged by Article 310 of this Code shall be restituted.

### **Article 303. Grounds for and Consequences of Partial Rehabilitation**

Grounds for partial rehabilitation shall be:

- 1) conviction of a person to imprisonment for a term less than his term of holding in custody, or to punishment unrelated to imprisonment;
- 2) exclusion of a part of charges from the sentence, which ensues impermissibility of taking into custody in accordance with the law;
- 3) reduction of a term of imprisonment by a higher court to the term less than actual served term, or revocation of punishment and sentencing to a milder punishment;
- 4) unreasonable apprehension, taking into custody, or commitment to a medical institution in the instances of conviction without criminal punishment.

Partial rehabilitation shall entail compensation for pecuniary damage and the elimination of the consequences of moral damage to the extent of invalidity of the damage caused to a defendant or a convicted person.

## **CHAPTER 38. PROCEDURES OF COMPENSATION FOR DAMAGE CAUSED TO REHABILITATED PERSON AND RESTITUTION OF HIS RIGHTS**

### **Article 304. Amount of Compensation for Pecuniary Damage**

Pecuniary damage caused by illegal actions, listed in Articles 302 and 303 of this Code, to the rehabilitated person shall be compensated in full.

The following damage shall be subject to compensation:

- 1) wage and other labor income, which the rehabilitated person has been deprived of as a result of illegal actions done with regard to him;
- 2) pension and social benefits, if payment thereof was suspended;
- 3) money, money deposits and interests thereof, public bonds and winning thereof, shares and other securities, as well as the cost of objects and other property, which were forfeited or transferred to government revenue pursuant to a sentence, finding (ruling) rendered by a court;
- 4) the cost of his property that was seized and later lost by inquiry and pretrial investigation agencies or court;
- 5) penalties and court taxes recovered from the person in execution of a sentence;
- 6) amounts paid by the person to a legal aid agency or company for the legal aid rendered as well as other relevant expenses borne as a result of illegal actions done with regard to that person. *(As amended by the Law of 30.08.1997.)*

In the case of the death of the rehabilitated person, his heirs shall have the right to compensation for the damage specified in Subparagraphs 1, 3, 4, 5 and 6 of this Article, and the persons entitled to survivor's pension shall have the right to compensation for the damage specified in Subparagraph 2 of this Article.

### **Article 305. Sources of Compensation for Pecuniary Damage**

Compensation for the pecuniary damage specified in Subparagraphs 1, 3, 4, 5 and 6 of Article 304 of this Code shall be effectuated by financial authorities, and for the pecuniary damage specified in Subparagraph 2 – by social security authorities from the funds of the state budget.

### **Article 306. Deciding upon Right to Compensation for Pecuniary Damage and Its Amount**

A court in a sentence of acquittal or a finding (ruling) to dismiss the criminal case, and an investigator and prosecutor in a resolution to dismiss the criminal case, pursuant to the grounds envisaged by Article 83 of this Code, shall recognize the rehabilitated person's right to claim for pecuniary damage. A copy of the sentence, finding, or ruling shall be served on or sent by post to the rehabilitated person.

Simultaneously, the rehabilitated person shall be expounded the procedures for bringing complaint against the sentence, finding, or ruling, compensation for pecuniary damage, and restitution of other rights.

No later than a month from the entry of the claim to compensate for pecuniary damage, a court, prosecutor, or investigator that has taken decision on the rehabilitation shall assess the damage, requesting, if necessary, the relevant calculations from financial or social security

authorities. If the criminal case has been dismissed by a court by way of cassational or supervisory procedure, the court that has rendered the sentence shall assess the damage.

#### **Article 307. Procedure for Compensation for Pecuniary Damage**

Having assessed the amount of pecuniary damage, a court in a finding, and an investigator or prosecutor in a resolution shall order to effectuate payments to compensate for the pecuniary damage.

A copy of the finding or the resolution, certified with a seal of the state emblem, shall be served on the rehabilitated person, and, in case of his death, – to the persons specified in Paragraph 3 of Article 304 of this Code, in order to present the copy to the agencies that obliged to effectuate the payments.

#### **Article 308. Bringing Complaint against Resolution or Finding to Effectuate Payments**

The resolution rendered by an investigator or prosecutor to effectuate the payments may be complained against by persons concerned through the court in accordance with the procedures and time limits envisaged by this Code.

The court's finding to effectuate the payments may be complained against by persons concerned and protested by a prosecutor through a higher court in accordance with regular procedures.

#### **Article 309. Elimination of Consequences of Moral Damage Caused to Rehabilitated Person**

If information that a person has been apprehended, taken into custody, suspended from office, committed to a medical institution, or convicted was disseminated by radio, television, or other mass media, the appropriate mass media shall be obliged – at a demand of the rehabilitated person or, if the person is dead, at a demand of his relatives, court, prosecutor, or investigator –to make a communication of the person's rehabilitation within one month.

#### **Article 310. Restitution of Other Rights of Rehabilitated Person**

The person, who has been suspended from office as a result of illegal conviction, commitment to a medical institution, holding in custody as a measure of restraint, or illegal apprehension, or who has been suspended from office as a result of his engagement in the proceedings in the criminal case as a defendant, shall be reponed in his office, or, if an enterprise, institution, or organization has been liquidated or if there exist other grounds, precluding reponing in his office, envisaged by law, he shall be appointed to an equal-status office.

The periods of custody as a measure of restraint, serving term, non-performance as a result of that person's suspension from office, and staying committed to a medical institution, shall be included in the general and occupational employment record of the rehabilitated person.

The person, separated from an educational establishment as a result of illegal conviction, holding in custody as a measure of restraint, apprehension, or commitment to a medical institution, shall be subject to reinstating in the place of his studies pursuant to his request.

A dwelling premise of the person, who has lost the right to use his dwelling premise as a result of illegal conviction or applying compulsory commitment to a medical institution, shall be returned to that person, and, if the return is impossible, he shall be provided with an equal-value dwelling premise in the same populated locality.

#### **Article 311. Restitution of Rights by Suit**

If a claim filed by a person to retribute his service, pension, and housing rights and to return property is not satisfied, or that person disagrees with the decision taken thereon, he shall be entitled to address the court with the respective claim by way of filing suit.

#### **Article 312. Time Limits of Filing Claims**

A claim for payments to compensate for pecuniary damage may be filed within two years from the date of the receipt of a finding or ruling on such payments by a rehabilitated person or persons listed in Paragraph 3 of Article 304 of this Code.

A claim for the restitution of other rights may be filed by a rehabilitated person within one year from the date of the receipt of a notice expounding the procedures for the restitution of the rights. In the instance when the above time limit is missed for a valid reason, the rights shall be restituted by an investigator, prosecutor, or court, addressed with a claim thereof by persons concerned.

#### **Article 313. Restitution of Property and Other Rights of Rehabilitated Military Servicepersons**

Restitution of service, pension, housing, and other personal and property rights of a rehabilitated military serviceperson and compensation for the pecuniary damage and the elimination of moral damage caused to that person shall be executed in accordance with the rules set by this chapter and the procedures determined by the General Prosecutor, the Minister of Defense, the Minister of Internal Affairs, and the 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**

Time limits set by this Code and the decision of an inquiry officer, investigator, prosecutor, or court in the instances provided for in law, shall be calculated in hours, days, and months. The first hour and day of a time limit shall not be included in the time limit, however, the above rule shall not be applied to calculating the duration of an apprehension or custody period, or commitment to a medical institution.

In calculating the duration of time limits, non-working hours shall be included. A time limit calculated in days shall expire at 12 a. m. of the last day. If an appropriate action needs to be executed in the court, prosecution office, or any other state agency, a time limit shall expire

in the end of working hours thereof.

A time limit calculated in months shall expire on the day of the last month, which is the same as the first day of the time limit, and if the month does not have such date, the time limit shall end on the last day of the month. If the end of a time limit falls on a non-working day (day off or holiday), the last day of such time limit shall be the next working day, except for cases of calculation of time limits in the event of an apprehension, holding in custody, or stay in a medical institution.

#### **Article 315. Calculation of Time Limits When Procedural Compulsion Measures Are Applied**

In the event of an apprehension, holding in custody, or stay in a medical institution of a person, a time limit shall be calculated starting from the time of actual application of the above measures. Upon the expiration of the time limits envisaged by Articles 226, 245 and 268 of this Code respectively, the person shall be immediately released.

A time limit shall be deemed met if a complaint, motion, or other document is delivered to or lodged with a person authorized to receive it. A time limit shall not be deemed missed, if a complaint, motion, or other document is delivered to a post office, or if a complaint or other document is delivered by a person held in custody or in a medical institution to the administration of the detention facility or the medical institution before the expiration of the time limit.

#### **Article 316. Extending Time limits**

Time limits set by this Code may only be extended in the instances envisaged in this Code.

A time limit set by a resolution of an inquiry officer, investigator, prosecutor, or a finding of court in the instances provided by law for the purpose of carrying out certain action, may be extended pursuant to a decision of an inquiry officer, investigator, prosecutor, or court that set the time limit, upon a motion submitted by an interested participant of the proceedings.

#### **Article 317. Extension of Statutory Deadline**

A statutory deadline missed for a valid reason must be extended pursuant to a resolution of the inquiry officer, investigator, prosecutor, or court that is in charge of the proceedings in the case. An inquiry officer, investigator or prosecutor shall render a resolution and a court shall render a finding on a granting or refusal to extend a statutory deadline. A denial to extend a statutory deadline may be complained against and protested on in accordance with the regular procedures.

Pursuant to a motion from an interested participant of the proceedings, the execution of a ruling or decision that has been complained against after the statutory deadline may be suspended pending decision regarding an extension of the statutory deadline missed.

### **CHAPTER 40. PROCEDURAL COSTS AND THEIR RECOVERY**

#### **Article 318. Procedural Costs**

Procedural costs shall consist of:

- 1) amounts paid to a victim, his legal representatives, witness, forensic examiner, expert witness, interpreter/translator, and attesting witnesses in order to cover their travel and accommodation costs, and per diems, related to the appearance in the venue of procedural actions;
- 2) amounts paid to a victim and his legal representatives, witness, and attesting witnesses who have no regular salary, in compensation for being diverted from the regular activities;
- 3) remuneration of a forensic examiner, interpreter and expert witness for performing their duties in the course of inquiry, pretrial investigation or the court proceedings, except when such duties have been performed as an official assignment;
- 4) amounts paid to a defense counsel for rendering legal assistance in the instance of the exemption of a defendant from payment for the legal assistance on the grounds provided for in article 50 of this Code;
- 5) amounts spent on the safekeeping and transportation of physical evidence;
- 6) amounts spent on the conducting a forensic examination at forensic institutions;
- 7) expenses incurred in the course of apprehension, compulsory appearance, and search of persons;
- 8) other expenses incurred in the course of proceedings in the criminal case.

The amounts referred to in Subparagraphs 1, 2, 3 and 4 of this Article shall be paid from the state budget pursuant to a resolution rendered by an inquiry officer, investigator, prosecutor, or pursuant to a court finding.

#### **Article 319. Retaining Average Wage**

An average wage of a person, summoned as a witness, victim, civil plaintiff or civil respondent or their representatives, or forensic expert, witnessing expert, interpreter/translator, public accuser or public defender, shall be retained in the place of his employment for as long as he is absent from his job in connection to his being summoned to an inquiry officer, investigator, prosecutor, or court.

#### **Article 320. Recovery of Procedural Costs**

Procedural costs shall be recovered from the convicted persons, except for the instances envisaged by Paragraphs 6, 7 and 8 of this Article, or reimbursed by the state.

A court may recover procedural costs from a convicted person, except for amounts paid to an interpreter/translator. Procedural costs may also be recovered from a convicted person relieved of penalty and a convicted person without penalty.

Having found several defendants on trial guilty in a criminal case, the court shall determine the amount of procedural costs to be recovered from each of them. The court shall take into account thereby the nature of guilt, the degree of liability for the crime and the property status of each convicted person.

If a defendant on trial in a criminal case is acquitted or a criminal case is dismissed in accordance with Article 83 of this Code, procedural costs shall be reimbursed by the state. If a defendant is acquitted of some of charges and found guilty of other charges, the court shall oblige him to recover procedural costs connected with the charges which he was found guilty of.

Procedural costs shall be reimbursed by the state if the person they shall be recovered from is insolvent. A court may exempt a convicted person from paying the procedural costs in full or in part, if such payment may substantially impair the material status of the persons who are dependents of the convicted person. If a suspect or defendant is exempted from payment for defense counsel aid, the procedural costs associated with remunerating the lawyer and also the interpreter/translator shall be reimbursed by the state.

Procedural costs associated with the suspended examination of a criminal case in the court, or a suspended investigative action, when a participant of the proceedings, summoned in accordance with the procedures established by law, fails to appear before an inquiry officer, investigator, or prosecutor without valid reasons, shall be recovered from that person.

Procedural costs may also be recovered from a defense counsel bureau, board, or company, and a public association or institution, if a defense counsel, public accuser or public defender affiliated to the abovementioned institutions fails to appear without valid reasons. *(As amended by the Law of 30.08.1997.)*

In criminal cases of offenses committed by a juvenile, the court may charge the procedural costs to the parents or legal representatives of the convicted juvenile when they are found guilty of failure to supervise properly the behavior of the juvenile.

If a defendant is acquitted on trial in the criminal case initiated upon the complaint of a victim, the court may recover procedural costs in full or in part from the person upon whose complaint the proceedings in the criminal case were initiated.

## **SPECIAL PART**

### **SECTION NINE. PRETRIAL PROCEEDINGS**

#### **CHAPTER 41. INITIATION OF CRIMINAL CASE**

##### **Article 321. Obligation to Initiate Criminal Case**

An inquiry officer, investigator, prosecutor, or court shall be obliged to initiate a criminal case of an offense in all the instances when there exist causes and sufficient grounds thereto.

##### **Article 322. Reasons and Grounds to Initiate Criminal Case**

Reasons to initiate a criminal case shall consist in:

- 1) complaints filed by individuals;
- 2) communications submitted by enterprises, organizations, institutions, public associations, and officials;
- 3) communications in mass media;
- 4) discovery of information and marks, showing indicia of an offense, immediately by an inquiry agency, inquiry officer, investigator, prosecutor, or court;
- 5) a voluntary surrender.

the ground to initiate a criminal case shall be the existence of information showing the indicia of the offense.

##### **Article 323. Impermissibility of Initiating Criminal Case upon Anonymous Complaint**

A letter about or complaint of an offense, which is unsigned or signed with a forged signature or written on behalf of a fictitious person, or other anonymous complaint of an offense, may not constitute a ground to initiate a criminal case.

##### **Article 324. Complaint of Individuals**

Individuals' complaints of an offense may be oral or written. written complaint must be signed by the complainant.

Oral complaint shall be entered in the official record. The official record must contain information on the complainant, his place of residence and employment, and the documents proving his identity. In the instance if the complainant cannot present the documents, other measures shall be taken to prove his identity.

The complainant shall be advised of criminal liability for making knowingly false complaint of an offense with a note to that effect being signed in the official record. Thereupon, the communication about the circumstances of the commission of an offense shall be entered in the official record in the first person singular, and when possible, verbatim. The official record shall be signed by the complainant and the official who accepted the complaint.

If a reason to initiate a criminal case is a voluntary surrender envisaged by Article 113 of this Code, all the rules of acceptance and processing of individuals' complaints envisaged by this Article shall apply such criminal case, with the exception that the person who made a voluntary surrender shall not be advised of criminal liability for knowingly false communication of an offense.

##### **Article 325. Initiating Criminal Case upon Victim's Complaint**

Criminal cases of non-aggravated rape and forced sexual intercourse in an unnatural form (Paragraph 1 of Article 118 and Paragraph 1 of Article 119 of the Criminal Code) shall be initiated upon victim's complaint only, if the victim requests to prosecute an offender. In exceptional instances when the victim is incapable to defend his rights and legitimate interests due to helpless condition, dependence on the accused person, or other reasons, a prosecutor shall be obliged to initiate a criminal case without the victim's complaint.

#### **Article 326. Communications of Enterprises, Institutions, Organizations, Public Associations, and Officials**

Communications about offenses filed by enterprises, institutions, organizations, public associations, and officials, shall be filed in a form of an official letter or a certified telephone message, telegram, or radio message. The documents proving the circumstances of the commission of an offense, which the sender disposes of, may be attached to the communication about an offense.

#### **Article 327. Communications in Mass Media**

Communications about certain offenses, disseminated by the printed mass media, broadcast on the radio or television, contained in documentary films and unpublished correspondence addressed to the mass media, shall constitute a reason to initiate a criminal case.

The mass media which have published or filed to the respective agencies a communication about an offense, as well as the authors of communication shall be obliged to present documents and other materials proving the communication at the request of an inquiry officer, investigator, prosecutor, or court.

#### **Article 328. Immediate Discovery of Information about Offense by Agency or Official Authorized to Initiate Criminal Case**

Immediate discovery of information about an offense may constitute a reason to initiate a criminal case in the instances when:

- 1) an inquiry officer receives information about an offense during execution of administrative duties or conducting inquiry of the criminal case of another offense;
- 2) an investigator received information about an offense during conducting pretrial investigation of another offense;
- 3) a prosecutor receives information about an offense when carrying out oversight of law enforcement or conducting pretrial investigation of another offense;
- 4) a judge receives information about an offense during the proceedings in the administrative case;
- 5) court receives information about an offense during the proceedings in the civil case or the criminal case of another offense.

#### **Article 329. Procedure to Review Complaints, Communications, and Other Information about Offense**

Complaints, communications, and other information about offenses shall be registered and reviewed immediately or no later than within three days, and, if it is necessary to verify whether the reason and grounds to initiate a criminal case are respectively legal and sufficient – directly or with assistance of inquiry agencies – no later than within ten days. These time limits shall be calculated from the moment of receipt of information about an offense until the moment of taking decision on initiation of a criminal case or on denial thereof.

Within the above time limits, additional documents and explanations may be requested and apprehension, view of the locale of the crime, and forensic examination may be conducted. Conducting other investigative actions shall be prohibited prior to initiation of criminal case.

#### **Article 330. Decisions Made upon Results of review of Information about offense**

In each instance of receipt of information about an offense and immediate discovery of such information, an inquiry officer, investigator, prosecutor, or court shall take one of the following decisions:

- 1) to initiate a criminal case;
- 2) to deny initiation of a criminal case;
- 3) to refer a complaint of or communication about an offense to the appropriate investigative jurisdiction.

#### **Article 331. Procedure of Initiating Criminal Case**

If there is a reason or ground, envisaged by Article 322 of this Code, an inquiry officer, investigator, or prosecutor shall render a resolution and court shall render a finding to initiate a criminal case.

The resolution to initiate a criminal case shall refer to: the reason and the ground to initiate a criminal case; Article of the Criminal Code under which the criminal case is initiated; the court or official that accepts the criminal case for the further proceedings.

An inquiry officer, investigator, prosecutor, and court shall forward respectively a copy of the resolution or finding to initiate a criminal case to the prosecutor who shall supervise over the investigation of the criminal case.

Immediately upon the initiation of a criminal case, measures shall be taken to suppress continuing offenses and to prevent repeated ones as well as to secure traces of offense, objects, and documents, which can be of significance to the criminal case.

#### **Article 332. Joinder and Severance of Criminal Cases**

Several criminal cases may be joined in one investigative or judicial proceeding only in relation of charging several persons who committed one or several offenses in complicity or one person who committed several offenses.

Severance of a criminal case in respect to persons who committed one or several offenses in complicity shall be admissible if it is necessitated by the circumstances of a criminal case and may not be detrimental to complete and comprehensive inquiry, investigation of a criminal case and examination thereof by court.

Criminal cases shall be joined and severed pursuant to a resolution of an inquiry officer, or investigator, or a finding of court.

### **Article 333. Denial to Initiate Criminal Case**

In the instances when the circumstances envisaged by Subparagraphs 1 and 2 of Article 83 and Paragraph 1 of Article 84 of this Code, an inquiry officer, investigator, or prosecutor shall render a resolution and a court shall render a finding of denial to initiate a criminal case, with notification to that effect of the individual, enterprise, institution, organization, public association, or official, who filed communication about the offense. They shall be thereby expounded the right and procedure to bring complaint against the resolution or finding.

### **Article 334. Measures to Be Taken upon Communications about Administrative, Disciplinary, and Other Infractions**

If the communication received contains information about an administrative, disciplinary or other infraction or violation of morals, and not a criminal offense, an inquiry officer, investigator, prosecutor, or court, simultaneously with denial to initiate a criminal case, shall refer the communication to administration in the place of employment, of studies, or of residential community in the place of residence of the offender, or public association or commission for juvenile affairs or official that have appropriate powers to apply administrative or disciplinary liability measures or community-correction measures.

If violation of political, labor, housing, family, or other rights of individuals as well as infringement of legal interests of enterprises, institutions, organizations, public organizations, which are defended by way of civil proceedings, have been discovered on the basis of the communication, simultaneously with denial to initiate a criminal case, persons concerned shall be expounded the right and procedure to address the court. If they are incapable to seek judicial protection, a prosecutor may address the court with application to defend the said persons.

### **Article 335. Referral of Complaint (Communication) about Offense to Appropriate Investigative Jurisdiction**

Referral of complaint (communication) about offense to the proper investigative jurisdiction shall be admissible in the instances when it is communicated about the offense that has been committed beyond the district (city) investigative jurisdiction and it is necessary to conduct verifying actions in the district (city) where the offense has been committed in order to decide upon the issue of initiation of a criminal case.

### **Article 336. Referral of Criminal Case upon Its Initiation**

Upon rendering the resolution or finding to initiate a criminal case:

- 1) court shall refer the criminal case to a prosecutor to conduct pretrial investigation;
- 2) a prosecutor, in accordance with Article 345 of this Code, shall refer the criminal case to an investigator to conduct pretrial investigation, or to head of inquiry agency to conduct inquiry, or commence conducting pretrial investigation;
- 3) an investigator shall commence conducting pretrial investigation, with notification to that effect of a prosecutor, without delays;
- 4) head of inquiry agency shall refer the criminal case to an inquiry officer to conduct inquiry or commence conducting pretrial investigation, with notification to that effect of a prosecutor, without delays;
- 5) an inquiry officer shall commence conducting inquiry, with immediate notification to that effect of a prosecutor.

### **Article 337. Prosecutor's Oversight of Legality of Initiation of Criminal Case**

In carrying out oversight of legality of initiation of criminal case, a prosecutor may:

- 1) reverse the resolution to initiate criminal case rendered by an inquiry officer, head of inquiry agency or investigator and deny to initiate criminal case;
- 2) reverse the resolution of denial to initiate criminal case rendered by an inquiry officer, head of inquiry agency, or investigator and deny to initiate criminal case and, simultaneously, initiate criminal case;
- 3) bring protest against a court finding to initiate criminal case or to deny initiation thereof to a higher court.

### **Article 338. Bringing Complaint against Decision to Initiate Criminal Case**

Prosecutor's resolution to initiate criminal case may be complained against to a higher prosecutor. Reversal of the resolution to initiate criminal case, rendered by an inquiry officer, head of inquiry agency, or investigator, which has been made by a prosecutor, may be complained against in accordance with the same procedure.

The resolution of an inquiry officer, head of inquiry agency, or investigator to deny initiating criminal case may be complained against to a prosecutor, the resolution of a prosecutor and the finding of court to deny initiating criminal case – to a higher prosecutor and a higher court respectively.

## **CHAPTER 42. INQUIRY**

### **Article 339. Purposes of Inquiry**

Inquiry shall consist in conducting urgent investigative actions in order to:

- 1) prevent or suppress the commission of an offense;
- 2) collect and secure evidence;
- 3) apprehend suspects of having committed an offense and detect fugitive suspects and defendants;

4) secure compensation for pecuniary damage caused by an offense.

Inquiry agencies shall have the obligation to take required measures with the use of scientific and technical means for the purposes of detecting indicia of an offense and persons who have committed an offense, discovering information that may be used as evidence in the criminal case upon verification thereof in compliance with the rules of this Code. Internal affairs and national security service agencies and the Tax and Currency Exchange Crime Control Department under the General Prosecutor's Office of the Republic of Uzbekistan and its field offices may take also operational-detective measures for the above purposes. *(As amended by the Laws of 31.08.2000, 30.08.2001, and 25.04.2003.)*

#### **Article 340. Commencement of Inquiry**

Upon initiation of a criminal case or receipt thereof initiated by a prosecutor or head of inquiry agency, an inquiry officer shall, without delays, accept the criminal case for proceedings and commence conducting urgent investigative actions.

#### **Article 341. Time Limits for Conducting Inquiry**

Inquiry in a criminal case shall be completed no longer than within ten days.

#### **Article 342. Completion of Inquiry**

Inquiry shall be completed with referring a criminal case to an investigator.

An inquiry officer shall refer criminal case to an investigator without delays, not waiting for expiration of the time limit for conducting inquiry, if:

- 1) serious or very serious crime has been established;
- 2) grounds to prosecute certain person as an accused in criminal case have been established;
- 3) grounds to dismiss criminal case have been established;
- 4) an investigator requested to refer the criminal case to accept for proceedings.

An inquiry officer shall render a resolution to refer criminal case to an investigator.

#### **Article 343. Carrying out Assignments, Orders, and Instructions of Investigator by Inquiry Officer**

An inquiry officer shall carry out investigator's assignments to conduct investigative and detecting actions in compliance with the investigator's instructions on the conditions, procedures, and time limits for carrying out thereof.

If it is impossible to meet the time limit for assignment, an inquiry officer shall notify an investigator thereof and file a motion to extend the time limit or to alter the conditions and modalities of carrying out the assignment.

At the official request of an investigator, an inquiry officer shall be obliged to render assistance to the investigator in conducting investigative actions, as well as to provide documents and other materials, which may be of proving significance, for familiarization and including in the criminal case file.

An investigator shall forward all his assignments, instructions, and official requests to an inquiry officer through head of the respective inquiry agency.

### **CHAPTER 43. GENERAL CONDITIONS OF PRETRIAL INVESTIGATION**

#### **Article 344. Officials Empowered to Conduct Pretrial Investigation**

Pretrial investigation shall be conducted by the investigators of prosecutor's offices, internal affairs agencies, and the National Security Service.

Prosecutors may also conduct pretrial investigation.

#### **Article 345. Mandatory Requirement to Conduct Pretrial Investigation**

Pretrial investigation shall be mandatory in all criminal cases.

Pretrial investigation in criminal cases of offenses punishable under Articles 97-103, 114-119, 121, 124-126, 128, 129, 136, 141-149, 175, 183, 184<sup>1</sup>, 186, 186<sup>1</sup>, 193-212, 215-221, 225, 229<sup>1</sup>, 229<sup>2</sup>, 230-236, 242, 244, 245, 251-258, 264, and 265 of the Criminal Code shall be conducted by the investigators of prosecutor's offices. *(As amended by the Laws of 1.05.1998, 25.12.1998, and 15.04.1999.)*

Pretrial investigation in criminal cases of offenses punishable under Articles 279-302 of the Criminal Code and of offenses committed by military servicemen shall be conducted by the investigators of the military prosecutor's office.

Pretrial investigation in criminal cases of offenses punishable under Articles 150-163, 182, 223, and 246 of the Criminal Code shall be conducted by the investigators of the National Security Service.

Pretrial investigation in criminal cases of offenses punishable under Articles 104-113, 120, 122, 123, 127, 130-135, 137-140, 164-166, 168-174, 176-181, 184, 185, 185<sup>1</sup>, 188-192, 213, 214, 222, 224, 226-229, 243, 247-250, 259-263, and 266-278 of the Criminal Code as well as of offenses committed by juveniles shall be conducted by the investigators of internal affairs agencies. *(As amended by the Laws of 26.05.2000, 15.12.2000, and 30.08.2001.)*

Pretrial investigation in criminal cases of offenses punishable under Articles 167, 244<sup>1</sup>, and 244<sup>2</sup> of the Criminal Code shall be conducted

by investigators of the agency that initiated the criminal case of the offense. *(As amended by the Laws of 15.04.1999 and 30.08.2001.)*

In criminal case of offenses punishable under Articles 237-241 of the Criminal Code, pretrial investigation shall be conducted by the agency that has investigative jurisdiction over the offense, in connection with which the criminal case was initiated.

If a new offense, over which another pretrial investigation agency has investigative jurisdiction, is established in the course of conducting pretrial investigation, pretrial investigation in full may be completed by the pretrial investigation agency, which is in charge of proceedings in the criminal case, only with the consent of the appropriate prosecutor.

Pretrial investigation of criminal cases of offenses committed by individual categories of officials specified by law shall be conducted by investigators of prosecutor's offices.

#### **Article 346. Territorial Investigative Jurisdiction**

Criminal case shall fall within investigative jurisdiction of the investigator of the district or city where the respective offense has been committed.

Pretrial investigation may be conducted also in the territory of initiation of criminal case or of whereabouts of a suspect, of an accused or of a majority of witnesses, in the instance if it is conducive to speedy, thorough, complete, and comprehensive examination of the circumstances of criminal case.

At the order of a higher prosecutor or head of a higher investigative department, pretrial investigation may be conducted regardless of the rules of territorial investigative jurisdiction.

#### **Article 347. Carrying Out Assignments of Investigator**

Each investigator in the criminal case, proceedings in which he is in charge of, may conduct or assign another investigator or inquiry officer to conduct any investigative action in any location within the territory of the Republic of Uzbekistan.

Investigator's assignment shall refer to the time limit for carrying out thereof which shall be mandatory for the assignee. In the instance when meeting the time limit for assignment is impossible, the assignee shall communicate, in writing, by telegram, or telephone message, to the investigator who forwarded the assignment about the appropriate time limit for carrying out it and shall thereupon follow the investigator's instructions.

#### **Article 348. Referral of Criminal Case**

Referral of criminal case from one investigator to another within the same investigative department shall be effected by head of the respective investigative department.

Referral of criminal case from one investigative department to another shall be effected by head of a higher investigative department with the consent of a prosecutor.

Referral of criminal case from one pretrial investigation agency to another shall be admissible pursuant to a prosecutor's resolution.

#### **Article 349. Participation of Public in Pretrial Investigation**

An investigator may involve the public in prevention and detection of crime. For the above purposes, he shall address public organizations, collectives, and individuals, asking to communicate information of significance for criminal case, to show the whereabouts of persons and objects being searched for.

Public organizations and collectives, at the request of an investigator, may recommend from their midst attesting witnesses, interpreters/translators, and expert witnesses to participate in certain investigative actions. The rules of this Code pertaining to the rights and obligations of the respective participants of proceedings shall apply *in extenso* to the attesting witnesses, interpreters/translators, and expert witnesses, being representatives of the public.

#### **Article 350. Commencement of Pretrial Investigation**

Having initiated criminal case, an investigator shall accept it for proceedings, with an entry to that effect being made in the resolution to initiate criminal case. If the criminal case that has been initiated is referred to an investigator, he shall render the resolution of taking charge of the proceedings in criminal case and commence pretrial investigation.

#### **Article 351. Time Limits for Pretrial Investigation**

Pretrial investigation shall be completed within no later than three months from the day of initiation of criminal case. *(As amended by the Law of 29.08.2001.)*

Pretrial investigation shall be deemed completed on the day of the referral of criminal case to a prosecutor together with the indictment or the resolution to refer the criminal case to court for imposing compulsory medical measures, or on the day of rendering the resolution to dismiss criminal case.

The time limit of pretrial investigation shall not include:

- 1) the time when a defendant, defense counsel, as well as a victim, civil plaintiff, civil respondent, and their representatives, get familiarized with the criminal case file;
- 2) the time when pretrial investigation was suspended;
- 3) the time when the criminal case returned for supplementary investigation did not reach the investigator.

The time limit for pretrial investigation envisaged by Paragraph 1 of this Article may be extended up to five months limit respectively by the Prosecutor of the Republic of Karakalpakstan or prosecutor of region, Tashkent City, and an equal-status prosecutor. The further extension of the time limit may be executed only by the Deputy General Prosecutor of the Republic of Uzbekistan up to seven months and by the General Prosecutor of the Republic of Uzbekistan – up to nine months. In exceptional cases, in view of seriousness of the offense committed and complexity of the criminal case under investigation, the pretrial investigation time limit may be extended by the General Prosecutor of the Republic of Uzbekistan up to twelve months. *(As amended by the Law of 29.08.2001.)*

In the instance when court remands criminal case to conduct supplementary investigation, and also when a suspended or dismissed criminal case is reopened, the time limit of supplementary investigation shall be set by the prosecutor in charge of oversight of the investigation and may not exceed one month from the day such criminal case was accepted by an investigator for proceedings. Further extension of the pretrial investigation time limit shall be effected in accordance with the general terms with inclusion of the period of investigation prior to referral of the criminal case to the court, suspension, or dismissal thereof.

The investigator shall present a motion to extend the time limit to the prosecutor no later than ten days before the expiration of the pretrial investigation time limit.

The prosecutor in his resolution shall grant the motion or order to complete pretrial investigation and refer the criminal case to court or render a resolution to dismiss the criminal case.

#### **Article 352. Participation of Attesting Witnesses in Investigative Actions**

Seizure, search, view, forensic examination, experiment, presentation for identification, on-site verification of testimony, obtaining samples for forensic examination, and exhumation of corpse shall be conducted in the course of pretrial investigation with participation of at least two attesting witnesses.

In the instance if the same investigative action is conducted by several investigators or an investigator and inquiry officers under supervision of the investigator, who conduct an investigative action in different premises or at a significant distance from one another, at least two attesting witnesses shall be present in the same place with each investigator and inquiry officer.

Attesting witnesses shall be invited also to attest individual's refusal to fulfill legal demands and suggestions of investigator, except for the instances envisaged by Article 93 of this Code, or to attest resistance to investigator or other illegal acts that violate the procedures of conducting pretrial investigation.

#### **Article 353. Obligation Not to Disclose Information Contained in Criminal Case File**

An investigator may recognize that information contained in the criminal case file in full or in part thereof is not subject to disclosure. Pursuant to the above, he may take a signed statement not to disclose information of the criminal case file without his permission from the persons who participate in investigative actions or are present during conducting thereof or familiarizing themselves with the criminal case file. The signed statement shall also refer to advising of liability for violation of the above obligation under Article 238 of the Criminal Code.

The obligation not to disclose information contained in the criminal case file may not be incumbent on a suspect and defendant.

Defense counsel's obligation not to disclose information contained in the criminal case file shall not apply to his conversations with a suspect or defendant.

#### **Article 354. Assignment to Group of Investigators to Conduct Pretrial Investigation**

In the instance when a criminal case is extremely voluminous, especially complex, or extraordinarily urgent, a prosecutor or head of investigative department may assign a permanent or *ad hoc* group of investigators to conduct pretrial investigation. Such assignment shall be processed in a resolution that shall refer to the names of the head and members of the group. In the instance if the decision to assign a group of investigators to conduct pretrial investigation has been taken simultaneously with the decision to initiate criminal case, both the decisions shall be processed in the same resolution. Resolution shall be rendered also on modification of the group composition and replacement of the head of the group.

#### **Article 355. Powers of Head of Investigative Group**

Head of an investigative group shall take charge of the proceedings in the criminal case and shall be fully responsible for the general direction and final results of pretrial investigation as well as for legality and validity of each action and decision taken in the course of this stage of criminal proceedings.

Head of an investigative group shall:

- 1) distribute the workload on the criminal case among the investigators under his supervision, assign the area or direction of investigation to each investigator within the group, assign conducting certain investigative actions, and establish time limits for execution thereof;
- 2) conduct in person investigative actions and participate in certain investigative actions conducted by the investigators under his supervision;
- 3) render resolutions, including a resolution to prosecute person as an accused, to take into custody, to dismiss or suspend criminal case in full or in part;
- 4) secure execution of prosecutor's instructions and, in the instances envisaged by Article 36 of this Code, refer criminal case to a higher prosecutor with his objections thereto;
- 5) extend assignments and instructions to an inquiry agency to conduct investigative and detective actions and also request from the inquiry agency to assist in the investigative actions conducted by the investigators, exercising control over the execution of the assignments, instructions, and requests;

6) submit a representation to take measures to remove the causes of the offense and the circumstances that facilitated commission thereof;

7) draw up the indictment or render a resolution to refer the criminal case to court to apply compulsory medical measures, and deliver the resolution along with the criminal case to the prosecutor for approval.

#### **Article 356. Investigators-Members of Group**

Investigators-members of group shall execute assignments and instructions of head of the group and report on the execution thereof.

The results of investigative actions that have been conducted by investigators-members of group shall have the same significance as those of investigative actions conducted by the investigator who has taken charge of the proceedings in the criminal case.

In the instance if an investigator-member of the group considers assignments or instructions of head of investigative group illegal or invalid, he shall express orally his objections to the head of investigative group. Having considered the objections, head of investigative group shall withdraw his assignment or instruction, or reassign it to another investigator, or conduct the respective investigative action. In the instance if an investigator-member of group disagrees with a decision that head of investigative group has taken on the objections, he shall communicate his objections to the prosecutor exercising oversight who shall take a final decision.

#### **Article 357. Conduct of Investigative Action by Several Investigators**

In the instance if, in view of conditions and purposes of conduct of view, search, experiment, or another investigative action, its participants must be situated simultaneously in different premises or keep a significant distance from one another, or if supervision over several participants or persons who are present during investigative action must be secured in the course of an investigative action, an investigative action may be conducted by several investigators or an investigator and inquiry officers assisting him. When conducting the investigative action, one of the investigators shall direct the actions of other investigators, inquiry officers, and other participants of the investigative action.

#### **Article 358. Bringing Complaint against Actions and Decisions of Investigator and Prosecutor**

Complaints against investigator's actions and decisions shall be filed to the head of investigative department and prosecutor who exercise oversight of legality in the course of investigation of criminal case.

Complaints against prosecutor's actions and decisions shall be filed to a higher prosecutor.

### **CHAPTER 44. ENGAGING IN PARTICIPATION IN CRIMINAL CASE AS SUSPECT AND ACCUSED**

#### **Article 359. Grounds to Engage Person in Criminal Case As Suspect**

A person shall be engaged in criminal case as a suspect if he has been apprehended due to his being suspected of having committed an offense on the grounds envisaged by Article 221 of this Code, or if in the criminal case file there exists information providing grounds to suspect him of having committed an offense.

#### **Article 360. Resolution to Engage in Criminal Case for Participation As Suspect**

An inquiry officer, investigator, or prosecutor shall render a resolution to engage a person in criminal case as a suspect.

In the instance if a person suspected of having committed an offense has been apprehended before the initiation of criminal case and the review envisaged by Article 225 of this Code has proved validity of his apprehension, an investigator shall take decisions to detain the person, to initiate criminal case with regard to him, and to engage the person in criminal case as a suspect, which shall be referred to in the same resolution.

The resolution shall contain reference to the offense, which the apprehended person is suspected of, the Article of the Criminal Code under which the offense is punishable, the reasons and grounds to apprehend, as well as to the decision to apprehend the person, to initiate the criminal case, if it has not been earlier initiated, and to engage the person in criminal case as a suspect.

The resolution shall be announced to a suspect before the first questioning. Simultaneously, he shall be expounded to the rights and obligations of a suspect envisaged by Article 48 of this Code.

#### **Article 361. Resolution to Engage Person in Criminal Case As Accused**

An investigator or prosecutor shall render a resolution to prosecute a person as an accused in criminal case, which must contain:

- 1) the last name, first name, and patronymic of the person prosecuted as an accused, day, month, and year of his birth;
- 2) the nature of the charge, i.e., description of an incriminated offense with the reference to the time and place of its commission, as well as other significant circumstances;
- 3) Article, paragraph, and subparagraph of the Criminal Code, stipulating punishability for the offense.

When a person is charged with several offenses, punishable under different articles, paragraphs, or subparagraphs of the Criminal Code, the nature and legal classification of each of the offenses shall be referred to individually.

The operative part of the resolution must contain the decision to prosecute the person as an accused in criminal case.

#### **Article 362. Modifying, Discontinuing, and Amending Charge**

If in the course of a pretrial investigation new evidence causing the necessity to review the initial charge are obtained, or inexactness or inaccuracy of legal classification is discovered in the initial charge, the initial charge shall be modified, partially discontinued, or amended.

An investigator shall render a resolution to that effect with reference to the essence of a new charge.

Charge shall be discontinued if circumstances, which present grounds to rehabilitate an accused or preclude the proceedings in criminal case, envisaged by Article 83, and Paragraphs 1 and 4 of Article 84 of this Code, have been established.

An investigator shall render a resolution to discontinue the charge. Simultaneously, an investigator, by the same resolution, shall revoke a measure of restraint imposed on a defendant, attachment of property, and suspension from office, and expound the person to his right to compensate for damage caused by his being illegally engaged as a defendant in the criminal case. A copy of the resolution shall be immediately served on or sent to the said person.

### **Article 363. Reopening of Discontinued Charge**

Discontinued charge may be reopened in the instance if the charge has been discontinued as a result of erroneous application of the rules of the Criminal Code or this Code, or if new evidence proving the guilt of a defendant has been discovered. In the above instances and also if charge was wrongfully discontinued as a result of an offense against justice, or fabrication, concealment, or destruction of the evidence, undertaken by an accused or another person acting at the request or with the consent of an accused, charge may be reopened within the periods of limitations set by Article 64 of the Criminal Code.

## **CHAPTER 45. SUSPENSION OF AND REOPENING PRETRIAL INVESTIGATION**

### **Article 364. Grounds and procedure for Suspension of Pretrial Investigation**

Pretrial investigation shall be suspended in the instances if:

- 1) the person to be prosecuted as an accused in the criminal case has not been ascertained;
- 2) the whereabouts of the defendant are unknown;
- 3) the accused has left the territory of the Republic of Uzbekistan, and it is impossible to secure his appearance to participate in the investigation;
- 4) severe and long yet curable illness of the accused, which excludes his opportunity to participate in the proceedings in the criminal case.

Pretrial investigation shall be suspended from the moment of emergence of the grounds envisaged by Paragraph 1 of this Article. However, before the suspension of pretrial investigation an investigator shall carry out all investigative actions, conducting which is possible in the absence of the accused.

An investigator shall render a resolution on suspension of pretrial investigation, a copy of which shall be forwarded to a prosecutor.

### **Article 365. Declaring Search**

When the whereabouts of the accused are unknown, the investigator shall take all necessary measures to ascertain the location of the accused and declare a search for him, if required. The investigator may declare a search for only the person with whose regard a resolution to prosecute him as a defendant is rendered.

The search may be declared both at the time of pretrial investigation and after its suspension.

If there exist the grounds envisaged by Articles 242 and 243 of this Code, an investigator, upon a prosecutor's authorization, may impose a measure of restraint in the form of taking into custody for the defendant searched for, on the chance the defendant would be detected.

In the instance if the accused searched for is apprehended, a prosecutor having jurisdiction over the place of the apprehension shall be obliged to verify whether the identity of the apprehended person is identical to the identity of the accused searched for and to verify the existence of legal grounds for detention.

### **Article 366. Suspension of Pretrial Investigation in Instance of Illness of Accused**

In the instance if a forensic medical examiner or psychiatric forensic examiner recognizes severe and long yet curable illness of an accused, which impedes his participation in the proceedings in the criminal case investigative and other procedural actions, pretrial investigation of criminal case shall be suspended until the recovery of the accused.

A measure of restraint imposed on the defendant may be continued, altered, or revoked by an investigator in compliance with the rules envisaged by Articles 236-254 of this Code.

### **Article 367. Suspension of Pretrial Investigation in Instance of Non-ascertaining of Person Subject to Engagement As Accused in Criminal Case**

In the instance if, upon completion of all investigative actions, the person to be engaged in criminal case as an accused has not been ascertained, proceedings in the criminal case may be suspended.

In these instances, an investigator, through an inquiry agency, shall be obliged to take measures for ascertaining identity of the person to be prosecuted in criminal case as an accused and to bring the said person to liability.

Upon expiration of the limitations of prosecution set by Article 64 of the Criminal Code, the criminal case proceedings of which has been suspended due to non-ascertaining of the person to be engaged in criminal case as an accused shall be dismissed.

### **Article 368. Suspension of Pretrial Investigation in Instance of Departure of Defendant from Territory of Republic of Uzbekistan**

If it has been established that an accused left the territory of the Republic of Uzbekistan and that this circumstance impedes securing his appearance, pretrial investigation in criminal case shall be suspended upon completion of all investigative actions.

#### **Article 369. Resolution to Suspend Pretrial Investigation**

Pretrial investigation in criminal case shall be suspended pursuant to investigator's resolution which shall refer to the essence of the criminal case and grounds to suspend investigation and, in the instances envisaged by Subparagraphs 2, 3 and 4 of Paragraph 1 of Article 364 of this Code, also the person who has been engaged in the criminal case as an accused.

Having suspended pretrial investigation, the investigator shall notify to that effect the victim, the civil plaintiff, and civil respondent, or their representatives.

#### **Article 370. Actions of Investigator after Suspension of Pretrial Investigation**

Depending on the grounds to suspend pretrial investigation, investigator shall inquire regularly about measures and actions, which have been taken by internal affairs agencies and other competent authorities in order to ascertain the persons to be engaged in criminal case as an accused and detect fled an accused persons, and, for the above purposes, forward request, make inquiries, receive explanations, and use assistance of the public, or inquire periodically about the accused person's illness that caused suspension of pretrial investigation. In the instances when an accused left the territory of the Republic of Uzbekistan, investigator shall take measures in compliance with the legislation and international treaties that regulate the extradition of persons, who are charged with having committed offenses and fled to a territory of another state.

It shall not be permitted to conduct investigative actions after a criminal case was suspended and until it will be reopened.

#### **Article 371. Reopening of Pretrial Investigation of Suspended Criminal Case**

Suspended pretrial investigation in criminal case shall be reopened in the instances when:

- 1) the circumstances envisaged by Article 364 of this Code as grounds to suspend investigation have been removed;
- 2) it became necessary to conduct supplemental investigative actions in the criminal case that could be conducted without the participation of an accused.

Resolution to suspend pretrial investigation may be withdrawn as inconsistent with law and pretrial investigation may be reopened by resolution of prosecutor.

Investigator shall communicate immediately to prosecutor about reopening pretrial investigation.

When pretrial investigation in criminal case is reopened, the suspended time limit of pretrial investigation shall be simultaneously restored. The further extension of the pretrial investigation time limit shall be effected pursuant to Article 351 of this Code and the period of investigation prior to suspension thereof shall be taken into account.

### **CHAPTER 46. COMPLETION OF PRETRIAL INVESTIGATION**

#### **Article 372. Types of Completion of Pretrial Investigation**

Pretrial investigation shall be completed with a resolution to dismiss criminal case, an indictment, or resolution to refer criminal case to court for applying compulsory medical measures.

#### **Article 373. Dismissal of Criminal Case**

Criminal case shall be dismissed if there exist the grounds envisaged by Articles 83 and 84 of this Code.

#### **Article 374. Resolution to Dismiss Criminal Case**

Resolution to dismiss criminal case shall be drawn up complying with the set rules.

The descriptive part of the resolution shall refer to:

- 1) the grounds for the initiation of the criminal case and the leads of commission of the offense considered in the course of investigation;
- 2) the information about the persons engaged in the criminal case as suspects and accused persons, the acts which they have been charged with, and measures of restraint imposed on the said persons, if suspicion or charge against the said persons had not been earlier removed by a separate resolution;
- 3) the grounds to dismiss the criminal case;
- 4) the evidence proving the grounds, with reference to volumes and pages of the criminal case file;
- 5) the list of physical evidence, with reference to the location of these objects, their owners, as well as motions by concerned persons and institutions to release the objects to them, if such motions were filed;
- 6) measures for securing a civil suit (*As amended by the Law of 29.08.2001.*)

The operative part of the resolution shall refer to the decisions:

- 1) on dismissal of the criminal case;

2) on removal of the suspicion or charge;

3) on revoking measures of restraint, as well as on taking measures for securing a civil suit; *(As amended by the Law of 29.08.2001.)*

4) on physical evidence.

After rendering resolution to dismiss a criminal case, investigator shall notify to that effect the suspect, accused, defense counsel, as well as the victim, civil plaintiff and civil respondent, and their representatives, and also the representatives of the enterprise, institution, organization, or individual, upon whose communication the criminal case was initiated. Simultaneously, they shall be expounded the right to bring complaint against dismissal of the criminal case to a prosecutor.

In the instance when a criminal case is initiated by court, the respective court shall be informed to that effect.

In the instance when a criminal case against a draftee is dismissed, investigator shall inform the respective district (city) department of defense to that effect in writing within seven days.

#### **Article 375. Securing Right to Get Familiarized with Criminal Case File after Completion of Criminal Case**

Having found that the evidence collected is sufficient to draw up an indictment, the investigator shall notify the accused and defense counsel of the completion of pretrial investigation, expound them the right to get familiarized with the whole criminal case file and provide them with the criminal case file for familiarization.

If a criminal case is dismissed, the investigator shall notify the suspect, the accused, and the defense counsel of the dismissal and the right to get familiarized with the whole criminal case file and provide them with the criminal case file for familiarization.

Investigator shall notify the victim, civil plaintiff, civil respondent, and their representatives of the completion of pretrial investigation, inform them that the criminal case with the indictment will be referred to court or that the criminal case is dismissed, and expound the said persons the right to get familiarized with the whole criminal case file, if they wish to do so. Thereupon, at the request of the said participants of the procedure, the investigator shall provide them with the criminal case file for familiarization.

For the purpose of providing security of victims, witnesses, attesting witnesses, and other participants to the proceedings, introductory parts of the official record of investigative actions may be not provided for familiarization. In these instances, introductory parts of the official records, containing information about the above participants to the proceedings, shall be kept sealed.

When the defense counsel of the defendant, or representative of the victim, of civil plaintiff, or of civil respondent, can not appear for familiarizing with the criminal case file on designated time with a valid reason, the investigator shall postpone the familiarization procedure for no longer than five days. In the instance if the defense counsel or the representative within the above time limit, the accused shall be provided with an opportunity to retain a different defense counsel, and the victim, the civil plaintiff, or civil respondent – a different representative.

#### **Article 376. Procedure for Familiarization with Criminal Case File**

Investigator shall present materials of the criminal case file for familiarization in a bound and numbered form, with the inventory of documents in each volume.

The time necessary for the familiarization with the criminal case file may not be limited. However, if it is obvious that the participants of the procedure try to delay the familiarization with materials of the criminal case file, the investigator may set a certain time limit for the familiarization with the materials of the criminal case file, by his resolution.

A person getting familiarized with the criminal case file may make extracts from the documents included in the criminal case file, except for information containing the state secrets.

The investigator shall execute an official record of the familiarization with the materials of the criminal case file.

The investigator shall enter the oral motions made after the familiarization with the criminal case file in the official record. A participant to the procedure may file a written motion separately, with the note to that effect being entered in the official record.

#### **Article 377. Procedure for Filing and Disposal of Motions**

After the accused, the defense counsel, as well as the civil plaintiff, the civil respondent, and their representatives got familiarized with the criminal case file, or refuse to get familiarized for any reasons, the investigator shall ascertain whether they want to file motions to conduct supplemental investigative actions or to take new decisions. *(As amended by the Law of 27.12.1996.)*

At the request of the parties, they may be provided with the time within three days limit in order to prepare and file a motion. The investigator shall render a resolution to deny a motion in full or in part and notify to that effect the person who filed the motion no later than within three days from the moment of filing the motion.

An applicant may bring complaint against denial of motion to a prosecutor within up to two days from the moment of familiarization with the resolution to deny the motion.

#### **Article 378. Repeated Familiarization with Criminal Case File after Granting Motions**

Having granted a motion, the investigator, regardless of who filed the motion and whose interests it affects, shall provide repeatedly an accused, defense counsel, as well as a victim, civil plaintiff, civil respondent, and their representatives with an opportunity for familiarizing with the whole criminal case file. *(As amended by the Law of 27.12.1996.)*

#### **Article 379. Indictment**

After familiarization of an accused and his defense counsel with the whole criminal case file, investigator shall draw up an indictment, in the instance if his conclusion about sufficiency of grounds for referral of the criminal case to court has not been altered.

Indictment shall consist of a descriptive-motivating part and an operative part. The descriptive part shall refer to the circumstances established by pretrial investigation: information about the victim as well as the defendant; the evidence proving the guilt of the accused; arguments of the accused in his defense and the results of review of the arguments.

The operative part shall refer to information about personality of the accused and the wording of the charge with a reference to article or articles of the Criminal Code stipulating this offense.

The indictment must refer to the pages of the criminal case file, which contain confirmation to what the indictment refers to. Indictment shall be signed by the investigator with a reference to the place and the date of drawing it up.

#### **Article 380. Attachments to Indictment**

The list of persons to be summoned to trial in the opinion of the investigator, as well as abstracts of the measures of restraint with the dates of holding of a suspect and accused in custody, physical evidence, the measures taken to secure the civil suit, and procedural costs shall be attached to the indictment. *(As amended by the Law of 29.08.2001.)*

In the list of persons to be summoned to trial, the investigator shall make reference to their whereabouts and the pages of the criminal case file, which contain their testimonies or conclusions.

For the purpose of providing security of victims, witnesses, and other participants to the proceedings, the alias of the said persons may be indicated in the list of persons to be summoned to trial. Information about the persons who need to be provided with security shall be sealed and presented to court together with introductory parts of the official records of investigative actions conducted with their participation. Only the prosecutor approving the indictment and the judges reviewing the criminal case may get familiarized with the above information.

#### **Article 381. Referral of Criminal Case to Prosecutor**

Upon signing of the indictment, an investigator shall refer immediately a criminal case to a prosecutor.

### **CHAPTER 47. OVERSIGHT OF COMPLIANCE OF INQUIRY AND PRETRIAL INVESTIGATION AGENCIES WITH LAW**

#### **Article 382. Powers of Prosecutor**

Oversight of law compliance in the course of conducting of inquiry and pretrial investigation shall be exercised by a prosecutor.

The subject of oversight of law compliance of inquiry and pretrial investigation agencies shall be the procedure for review and disposal of complaints and communications about offense and for conducting investigation, and legality of decisions taken, set by this Code.

In exercising oversight of law compliance of inquiry and pretrial investigation agencies, a prosecutor, within his subject-matter jurisdiction, shall:

- request documents, materials, and other information about committed offenses, the course of operational-detective activity, inquiry, and pretrial investigation from inquiry and pretrial investigation agencies; review the compliance with requirements of law on acceptance, registration, and disposal of complaints and communications about committed or imminent offenses at least once a month;

- revoke illegal or invalid decisions of inquiry officers and investigators;

- issue written instructions to investigate offenses, to impose, alter, or revoke measure of restraint, to classify an offense, to engage in criminal case as an accused, to conduct certain investigative actions, and to search for persons having committed offenses;

- instruct inquiry agencies to execute resolution to apprehend, to effectuate compulsory appearance under law enforcement custody, to take into custody, to search for persons, to conduct search and seizure, and to conduct other investigative actions, as well as issue instructions to take required measures to detect offenses and discover persons having committed thereof in criminal cases which are in the proceedings of a prosecutor or investigator of prosecutor's office;

- participate in conducting inquiry, pretrial investigation and, where necessary, conduct particular investigative actions or investigation in full in any criminal case;

- authorize conducting search, impounding of postal and telegraph correspondence, monitoring of telephone and other communications, suspension of an accused from office, and other actions of an inquiry agency and investigator in the instances envisaged by law;

- extend time limits of investigation and holding in custody as a measure of restraint in the instances and in accordance with the procedure envisaged by this Code;

- remand criminal cases to inquiry and pretrial investigation agencies with his instructions to conduct supplemental investigation;

- take any criminal case from an inquiry agency and refer it to an investigator, as well as to refer a criminal case from one pretrial investigation agency to another and from one investigator to another;

- remove a person conducting inquiry or investigator from further inquiry or pretrial investigation, if the said person has violated the law in conducting investigation of criminal case;

- initiate criminal cases or deny to initiate thereof, discontinue or suspend proceedings criminal cases, give consent to an investigator to dismiss a criminal case in instances when it is envisaged by law, approve indictment or resolution to charge, and

forward criminal cases to court.

Instructions issued by a prosecutor to inquiry and pretrial investigation agencies in connection with conducting by them pre-investigation verification and initiation and investigation of criminal cases shall be binding upon the said agencies.

### **Article 383. Powers of Prosecutor in Multi-episodic Criminal Cases**

In multi-episodic criminals cases, a prosecutor or his deputy, having recognized that the evidence collected with regard to certain person on separate episodes of the charge are sufficient to draw up an indictment, may provide a written instruction to complete investigation and to refer the criminal case in part of these episodes to court.

### **Article 384. Issues To Be Decided upon by Prosecutors in Criminal Case Received with Indictment**

Prosecutor or his deputy shall be obliged to review the criminal case file received with the indictment from the investigator and verify:

- 1) whether the act, which the accused is charged with, took place and whether the act contains *corpus delicti*;
- 2) whether the charge brought is confirmed with the evidence in the criminal case file;
- 3) whether all acts of the accused, which have been proved to be offenses, have been included in the essence of the charge;
- 4) whether all the persons proved of having committed an offense have been engaged in criminal case as accused persons;
- 5) whether there exist circumstances entailing discontinuance of the charge or dismissal of the criminal case;
- 6) whether the acts of the accused have been classified correctly;
- 7) whether the correct measure of restraint have been imposed;
- 8) whether measures for securing civil suit have been taken; *(As amended by the Law of 29.08.2001.)*
- 9) whether the reasons that caused the offense and conditions that facilitated commission the offense have been identified, and whether the measures to remove thereof have been taken;
- 10) whether investigation have been conducted thoroughly, comprehensively, and fully;
- 11) whether the indictment has been drawn up in compliance with the requirements envisaged by Articles 379 and 380 of this Code;
- 12) whether the inquiry officer and investigator complied with other requirements of this Code.

### **Article 385. Decision of Prosecutor on Criminal Case Received with Indictment**

A prosecutor or his deputy shall be obliged to review the criminal case file received with the indictment no longer than within five days and shall make one of the following decisions:

- 1) to approve by his resolution the indictment and recognize that there exist grounds to refer the criminal case to court;
- 2) to remove separate counts of the wording of the charge, to apply a criminal law providing a lesser offense, and to approve the indictment with the above modifications, by his resolution;
- 3) to remand the criminal case with his instructions to the investigator to conduct supplemental investigation;
- 4) to suspend the proceedings in the criminal case;
- 5) to dismiss the criminal case.

In the instance if the charge needs to be supplemented or modified to a greater one or to the charge significantly different from the previous charge in terms of factual circumstances, a prosecutor or his deputy shall remand the criminal case to conduct supplemental investigation in order to bring the supplemental or modified charge.

### **Article 386. Decision on Measure of Restraint**

A prosecutor or his deputy on the criminal case received with the indictment may revoke or alter the measure of restraint, or impose a measure of restraint, if it was not earlier imposed. The rules of Chapter 28 of this Code shall be applied thereto

### **Article 387. Modifying List of Person to Be Summoned to Court Session**

A prosecutor or his deputy in his resolution may supplement or reduce the list of persons to be summoned to court session before referral of criminal case to court. At this, convicted persons, capable victims, legal representatives of juvenile accused persons, as well as persons recognized as civil plaintiffs or engaged in criminal case as civil respondents and their representatives may not be excluded from the list. The list may not be supplemented with persons who have not been questioned as witnesses and have not provided conclusions as exert witnesses during pretrial investigation.

### **Article 388. Referral of Criminal Case to Court**

Having approved indictment, a prosecutor or his deputy shall refer the criminal case to the court having jurisdiction over the criminal case. All motions and complaints shall be delivered to the same court together with the criminal case file for verification and disposal thereof. *(As amended by the Law of 27.12.1996.)*

The prosecutor or his deputy shall notify immediately the accused and defense counsel, as well as the victim, civil plaintiff, civil respondent, and their representatives of referring the criminal case to court and inform the said persons about the right to present motions that they have to court and announce the motions at court session. Simultaneously, the prosecutor or his deputy shall forward certified copies of the indictment and attachments thereto, except for the list of persons to be summoned to court, and, if amendments have been made for the indictment or attachment, a copy of resolution to make amendments, to the accused and his defense counsel.

## **SECTION TEN. PROCEEDINGS IN COURT OF FIRST INSTANCE**

### **CHAPTER 48. JURISDICTION**

#### **Article 389. Jurisdiction over Criminal Case**

A district (city) criminal court shall have jurisdiction over all criminal cases, except for the criminal cases over which superior and military courts have jurisdiction.

The Superior Court on Criminal Cases of the Republic of Karakalpakstan and the courts on criminal cases of the Tashkent Region and Tashkent City shall have jurisdiction over criminal cases of the offenses envisaged by Paragraph 2 of Article 97, Paragraph 4 of Article 118, Articles 150, 153, 155, 157, and 158, Paragraphs 3 and 4 of Article 159, Articles 160 and 161, Paragraph 3 of Article 210, Articles 230, 231, 242, and 244, and Paragraph 5 of Article 273 of the Criminal Code.

Whether military courts shall have jurisdiction over a criminal case shall be determined by the legislation on military courts.

The Supreme Court of the Republic of Uzbekistan shall have jurisdiction over criminal cases of special complexity and significance.

The Chief Justice of the Supreme Court of the Republic of Uzbekistan, the Chief Justice of the Supreme Criminal Court of the Republic of Karakalpakstan, presiding judges of the criminal courts of region, Tashkent City, and the Presiding Judge of the Military Court of the Republic of Uzbekistan shall have the right to refer criminal cases on the offenses envisaged by Paragraph 2 of this Article to the respective criminal court of district (city) or the district or territorial military court, if a criminal case is not complex in terms of its contents.

*(As amended by the Law of 14.12.2000.)*

#### **Article 390. Right of Higher Court to Order Examination of Criminal Case that Falls within Jurisdiction of Lower Court**

A higher court shall have the right, as a court of the first instance, to order the examination of any criminal case that falls within the jurisdiction of a lower court.

#### **Article 391. Venue of Criminal Case**

A criminal case shall be examined by the court at the place where the offense has been committed.

If it is impossible to identify the place where the offense was committed, a criminal case shall be examined by the court of the district where pretrial investigation of that criminal case was completed.

When a criminal case regards continuing or continuous offenses, such criminal case shall fall within the jurisdiction of a court of the district where offense was completed or terminated.

#### **Article 392. Determination of Venue in Joinder of Criminal Cases**

In the instance of joinder of criminal cases to charge a group of persons with committing several offenses in different venues, or one person with committing several offenses, criminal cases of which fall within the jurisdiction of two or more courts of an equal levels, the criminal case of all the offenses shall be examined by the courts of that venue where pretrial investigation was completed.

In the instance of charging one person or a group of persons with committing several offenses, criminal cases of which fall within the jurisdiction of courts of different levels, the criminal case of all the offenses shall be examined by the higher of the courts.

If a criminal case of charging one person or a group of person with committing several offenses shall fall within the jurisdiction of a military court with regard to one of those persons or one of those offenses, the criminal case of all the offenses shall be examined by a military court.

#### **Article 393. Referral of Criminal Case to Proper Jurisdiction**

To secure completeness, objectivity and timeliness of the examination of a criminal case, a criminal case may be referred from one court to another by a decision of the chief judge of a higher court.

The issue to refer a criminal case to a court of another region or to the court of the Republic of Karakalpakstan shall be decided upon the Chief Justice of the Supreme Court of the Republic of Uzbekistan.

If a judge, when deciding the issue of ordering a court session on a criminal case, discovers that the case brought to the court is not within the jurisdiction of that court, he shall rule to refer the case to the proper jurisdiction.

A criminal case may be referred only before the commencement of the trial on the criminal case.

If it is discovered that another equal-status court has jurisdiction over of the case during court session, the court shall continue to examine the case when continued examination is not detriment to complete examination of the facts of the case, otherwise the court shall rule the referral of the case to the proper court jurisdiction.

If the court discovers that a higher court or a military court has jurisdiction over the case, the court shall refer the case to the proper court jurisdiction and shall render a finding that the case shall be referred to that court jurisdiction.

Referral of the case, examined in the court session of a higher court, to a lower court shall not be permitted

#### **Article 394. Impermissibility of Disputes Over Jurisdiction**

Disputes between courts over jurisdiction shall not be permitted. Any criminal case referred from one court to another pursuant to the procedure set by this Code shall be unconditionally accepted for proceedings by the court to which it was referred.

### **CHAPTER 49. ORDERING CRIMINAL CASE TO TRIAL**

#### **Article 395. Procedure for Ordering Criminal Case to Trial or Taking Different Decision**

Having received a criminal case with an indictment or a resolution to refer a case to trial for considering the issue of application of compulsory medical measures, the judge shall render a finding or ruling on making one of the following decisions:

1. on ordering the case to trial;
2. on suspending proceedings in the case;
3. on dismissing proceedings in the case.

The judge shall order the case to trial or take a different decision within seven days from the moment the case was received by the court. The chief judge of this court may extend this time limit, but no more than by three days.

*(As amended by the Law of 27.12.1996)*

#### **Article 396. Circumstances to Be Clarified when Ordering Case to Trial**

When deciding the issue on ordering the case to trial, the judge shall clarify the following circumstances in respect to each accused:

1. whether the criminal case is within the jurisdiction of the court;
2. whether there are circumstances to dismiss or suspend the case;
3. whether there exist sufficient grounds for judicial consideration of the case;
4. whether the requirements of this Code were observed during inquiry and pretrial investigation;
5. whether the measure of restraint in respect to the accused has been chosen correctly;
6. whether measures for securing the compensation of pecuniary damage caused by the crime were taken; *(As amended by the Law of 29.08.2001)*
7. whether the indictment was drawn up in compliance with the requirements of this Code.

#### **Article 397. Ruling to Order Criminal Case to Trial**

The ruling on ordering the criminal case to trial shall refer to:

1. time and venue of rendering;
2. position and last name of the judge;
3. the last name, first name, and patronymic of the accused and the article of the Criminal Code under which charges brought against him;
4. conclusion on whether there exist sufficient grounds for hearing the case;
5. decision on the measure of restraint in respect to the defendants;
6. participation of a public accuser and defense counsel in the trial;
7. venue and time of the trial.

*(As amended by the Law of 27.12.1996)*

#### **Article 398. Measures to Ensure Recovery of Pecuniary Damage**

If the judge finds that measures to secure compensation for pecuniary damage caused by the crime have not been taken during pretrial investigation, and that the court cannot take such measures, the judge shall oblige the investigator to take necessary measures.

*(As amended by the Law of 29.08.2001)*

#### **Article 399. Suspension of Proceedings on Criminal Case**

If, during the consideration of the issue of ordering the criminal case to trial, it is found that the accused has fled, the judge shall rule on suspension proceedings on the case in respect to the accused and on ordering search therefor, except for the instances envisaged in Articles 410 and 418 of this Code. Simultaneously, the issue of altering the measure of restraint in respect to the accused shall be decided.

In the instance of a severe and long illness of the accused, acknowledged by a forensic medical examination report, which prevents his participation in the court session the judge shall render a finding to suspend the case until the recovery of the accused.

#### **Article 400. Referring Suspended Case to Prosecutor**

The case suspended on the grounds of paragraph 1 of Article 399 of this Code shall be referred to the prosecutor, who approved indictment, in order to take measures for search for the accused.

#### **Article 401. Dismissal of Case**

In the instance if there exist circumstances envisaged in Article 83 and paragraph 1 of Article 84 of this Code, the court shall dismiss the case. Along with this, the court shall revoke the imposed measures of restraint, measures for securing the civil suit, and decide the issue of physical evidence. *(As amended by the Law of 29.08.2001)*

The court shall be entitled to dismiss the case on the grounds envisaged in paragraph 4 of Article 84 of this Code.

The accused and the victim shall be informed of the dismissal of the case.

## **Article 402. Familiarization of Participants in Proceedings to Case File Materials**

Upon the ordering the case to trial, the judge must provide the prosecutor, defense counsel, public accuser, public counsel, as well as the defendant, victim, civil plaintiff, civil respondent, and their representatives with an opportunity to get familiarized with the whole case file and to write out required information, if they have not been familiarized with it during pretrial investigation.

## **Article 403. Summons**

The judge shall order that the persons referred to in his ruling be summoned to the court session, ensure that summons are served on them, and take other measures for preparing the court session.

*(As amended by the Law of 27.12.1996)*

Article 404. Bringing Complaint and Protest against Finding of Court to Refer Case for Supplementary Investigation and to Dismiss Case

The accused and the victim may file a private complaint, and the prosecutor may file a private protest against the decision of the court to refer the case for supplementary investigation or to dismiss the case.

## **Article 405. Time Limits for Commencing of Trial**

The court shall commence consideration of a case not later than ten days from the moment of rendering of the ruling to order the case to trial by the judge.

The court shall consider the case on its merits within two months from the beginning of trial.

This time limit may be extended up to four months by chief judges of the Supreme Court of the Republic of Karakalpakstan on Criminal Cases, regional or Tashkent City courts on criminal cases, or the Military Court of the Republic of Uzbekistan on the basis of a finding rendered by the court of first instance.

The time limit for consideration of a case in courts may be extended in exceptional cases only on complicated and multiple-episode cases. Such extension shall be effected pursuant to the finding of a court of first instance by the deputy Chief Judge of the Supreme Court of the Republic of Uzbekistan - up to five months, and by the Chief Judge of the Supreme Court of the Republic of Uzbekistan - up to six months.

## **CHAPTER 50. GENERAL PRINCIPLES OF TRIAL**

### **Article 406. Inalterability of Court Panel in Trial**

Each criminal case shall be considered by the same judge or the same panel of the court.

### **Article 407. Reserve People's Assessor**

A reserve people's assessor may participate in time-consuming consideration of the case. He shall be present in the courtroom from the beginning of trial and shall be entitled to all rights of judge, except for the rights to participate in deliberations of the court and to take decisions on the case.

In the instance if a people's assessor leaves the panel of the court, the reserve people's assessor shall replace him, and consideration of the case shall continue.

### **Article 408. Presiding Judge**

A presiding judge of the court session shall be the chief judge of the court, his deputy, or a judge.

A presiding judge shall direct a court session and take all necessary actions envisaged in this Code to consider thoroughly, comprehensively, fully, and objectively all circumstances of the case, and to establish the issue, and shall withdraw everything irrelevant to the case in trial.

A presiding judge shall take care of maintenance of order in the courtroom. His orders shall be binding for the parties to the trial, and for everyone present at the hearing.

If a party or other persons have objections against the actions of the presiding judge, these objections shall be registered in the court hearing record.

### **Article 409. Participation of Prosecutor in Trial**

The prosecutor participating in consideration of criminal cases by courts of first instance shall carry out prosecution; participate in examination of evidence; question the defendants, victims, witnesses, forensic examiners and other persons called to the hearing; express his opinion on the application of Criminal Code provisions, classification of the actions of the defendant, his sentencing, and on other issues to be considered by the court; express his opinion on the reasons and circumstances that favored to committing the crime, and on measures to eliminate them.

When carrying out prosecution, the prosecutor shall be directed by the requirements of this Code, other Laws of the Republic of Uzbekistan, and by personal opinion based on the consideration of all circumstances of the case.

If the prosecutor concludes on the basis of court findings that it is necessary to alter the charges brought to the defendant, he must present his reasoned opinion thereon to the court.

If the prosecutor concludes on the basis of court findings that the defendant is not guilty, he must dismiss the charge and present the reasons therefor to the court.

The prosecutor shall present his opinion on altering the charges or reasons for dismissal thereof to the court in writing.

The prosecutor shall bring a civil suit or proceed with a civil suit brought by the victim, if the interests of protection of the rights of individuals and society require doing so.

The prosecutor shall participate in the courts of first, appellate, cassation, and supervision instances, during the consideration of criminal cases, or during resolution of issues related to the execution of the sentence or other issues envisaged in this Code.

*(As amended by the Law of 14.12.2000)*

#### **Article 410. Participation of Defendant in Trial**

The consideration of a criminal case in the court of first instance shall be held in presence of the defendant, who shall be obliged to appear to the court session.

In the instance of non-appearance of the defendant in the court, trial shall be postponed, except for the circumstances envisaged in paragraph 3 of this Article. The court shall be entitled to order reconduction of the defendant who failed to appear in the court, and impose or alter the measure in his respect.

A trial in absence of the defendant may be conducted only when the defendant is out of the territory of the Republic of Uzbekistan and evades from appearing in the court, while his absence does not preclude the establishment of the issue, or when the defendant is removed from the courtroom in the procedure envisaged in Article 272 of this Code.

#### **Article 411. Consequences of Non-Appearance of Victim**

If a victim fails to appear, the court shall decide on the issue of conducting trial in absence of the victim depending on whether it is possible to find out all circumstances of the case and protect his rights and legitimate interests in his absence.

In the instance of absence of the victim without valid reason, the court shall render a finding on his reconduction.

#### **Article 412. Consequences of Non-Appearance of the Prosecutor, Defense Counsel, Public Accuser, and Public Defender**

The trial of a criminal case shall be postponed if the prosecutor fails to appear to the court session.

In the instance of non-appearance of the defense counsel to the court session, he can be replaced only with the consent of the defendant. If replacement of the defense counsel at the same session is impossible, the trial of the case shall be postponed.

In the instance of non-appearance of the public accuser or public defender, the court shall, depending on the circumstances of the case, decide to conduct the session in their absence, or to postpone the trial.

A new prosecutor or defense counsel shall be afforded time necessary for preparation for participation in trial.

The court shall inform the higher prosecutor or the qualification commission of advocates about non-appearance without valid reason of the prosecutor or defense counsel respectively. The court shall inform the respective public organization or collective about non-appearance without valid reason of the public accuser or public defender. *(As amended by the Law of 30.08.1997)*.

#### **Article 413. Consequences of Non-Appearance of Civil Plaintiff or Civil Respondent**

In the instance of non-appearance of the civil plaintiff or his representative, the court shall leave the claim without consideration. However the person, to whom pecuniary damage was caused, shall be entitled to file a case by way of civil procedure.

Pursuant to a motion of the civil plaintiff, the court may consider the case in his absence.

If the prosecutor proceeds with the civil suit, or if the court finds it necessary, the court shall consider the civil case regardless of the presence or absence of the civil plaintiff or his representative.

Non-appearance of the civil respondent or his representative shall not be an obstacle to court consideration of the civil suit.

#### **Article 414. Extent of Court Consideration**

A trial of a criminal case in the court shall be conducted only in respect to the accused.

In the instance of consideration of the case after the reversal of the sentence due to leniency of the penalty or necessity to apply a statute of a more serious offense, the trial shall be continued only in part pertaining to the classification of the offense and the penalty, while the issue of the guilt of the defendant shall not be considered.

#### **Article 415. Altering Charge by Court**

The court shall be entitled to alter the charge. When charge is altered, the parts of the charge and classifying features of the offense shall be excluded.

It shall be prohibited for the court to alter the charges to those, which are heavier or substantially different from the previous charges in terms of factual circumstances.

#### **Article 416. Initiation of Criminal Case on New Charges**

If judicial investigation finds circumstances showing that the defendant committed an offense, which he was not charged with, the court shall render a finding to initiate a criminal case on new charges and refer the finding and all necessary materials in order to conduct pretrial investigation, while consideration of the criminal case shall not be suspended.

In the instance when the new charge is closely connected to the initial one, and it is impossible to consider them separately, the whole criminal file shall be remanded for supplementary investigation.

In connection with the new charge, the court may alter or impose a different measure of restraint on the defendant.

In the instance if the investigator or prosecutor has previously rendered a resolution to deny initiation of a case or to dismiss the case in respect of the circumstances, which were the ground for the court to initiate the case on new charges, the court shall revoke this resolution.

#### **Article 417. Initiation of Criminal Case against New Person**

If during judicial investigation the court establishes circumstances indicating that the offense was committed by a person who was not accused, the court shall render a finding to initiate a criminal case against this person and refer the finding along with all necessary materials for conducting supplementary investigation.

When the new charge is closely connected with the initial one, and it is impossible to consider them separately, the whole criminal file shall be remanded for supplementary pretrial investigation.

In the instance if the investigator or prosecutor has previously rendered a resolution to deny initiation of a case or to dismiss the case in respect of the circumstances, which were the ground for the court to initiate the case against a new person, the court shall revoke this resolution.

A criminal case against the witness, victim, forensic examiner, and interpreter/translator, who gave a knowingly false testimony or report, or made a knowingly wrong translation, may be initiated only simultaneously with entering the sentence.

A court may impose a measure of restraint on a person, against whom a criminal case has been initiated.

#### **Article 418. Postponement of Trial**

If a trial is impossible because a person summoned to a court session fails to appear, or because it is necessary to request new evidence, the court shall postpone the trial and take measures to summon the person who failed to appear, or to request new evidence.

#### **Article 419. Remanding Criminal Case for Supplementary Investigation**

The court shall remand criminal case for supplementary investigation no more than two times in the instances of:

1. incompleteness of pretrial investigation, which may not be made up in court sessions;
2. significant violation of the requirements of this Code by the inquiry officer or investigator, if this precludes correct resolution of the case;
3. existence of grounds to bring the accused with other charges, which are related to those previously brought, or for changing the charges to heavier or substantially different from those in the indictment;
4. existence of grounds to engage other persons in the criminal case as accused, if it is impossible to separate materials on them from the case file;
5. incorrect joinder or severance of the case.

When remanding the case to the prosecutor, the court in his finding shall be obliged to refer to the grounds for remanding the case and circumstances to be additionally clarified.

#### **Article 420. Suspension of Consideration of Criminal Case**

If the defendant has fled, as well as in the instance of a mental or another severe illness of the defendant, which impedes his appearance before the court, the court shall suspend consideration of the case in respect to this defendant, and continue consideration in respect to the other defendants. If, however, separate trial hampers establishment of the issue, the entire proceedings in the criminal case shall be suspended. The court shall order the search for the fled defendant by its finding.

In the instance of suspension of consideration of a case due to a severe illness of the defendant, the court shall consider the issue of revocation or alteration of the measure of restraint imposed on the defendant.

#### **Article 421. Dismissal of Criminal Case in Court Session**

If during the court session the grounds envisaged in Article 83 and subparagraph 1, 2, and 3, paragraph 1 of Article 84 of this Code are established, the court shall continue trial, and enter the sentence of acquittal pursuant to the grounds envisaged in Article 83, and shall enter a sentence of conviction without imposing penalty on the guilty pursuant to the grounds envisaged in subparagraph 1, 2, and 3, paragraph 1 of Article 84.

#### **Article 422. Decision on Measure of Restraint**

During trial, the court shall be entitled to impose, alter, or revoke a measure of restraint in respect to the defendant.

#### **Article 423. Procedure for Rendering Findings in Court Session**

A court shall render findings on all issues to be decided upon by the court during trial.

In a separate or deliberation room, the court shall render a finding to remand a criminal case to prosecutor for supplementary investigation, to initiate a case on new charges or in respect to a new person, to dismiss or suspend the case, to impose, alter, or revoke a measure of restraint, on challenges, and private findings. These findings shall be rendered as separate documents and shall be signed by the court.

All other findings may be rendered either in accordance with the above procedure or *in situ* with entering a finding into the official record of the court session, at the discretion of the court.

Each finding rendered by the court during trial shall be read out immediately.

#### **Article 424. Schedule of Court Session**

As the judges enter the courtroom, all those present in the courtroom shall rise.

All participants in a trial shall stand when addressing the court, giving testimony, and making statements. Deviations from this rule may only be allowed with permission of the presiding judge.

All participants in a trial, and everyone present in the courtroom shall obey implicitly to orders of the presiding judge on the order in the courtroom.

No person under sixteen years of age shall be let in the courtroom unless such a person is a defendant, victim, or witness.

#### **Article 425. Measures to Be Taken in Regard of Persons Violating Order of Court Session**

When there is a violation of order of the court session, disobedience to the orders of the presiding judge, or contempt against the court, the measures under Article 272 of this Code shall be taken in regard of the committer thereof.

#### **Article 426. Official Record of Court Session**

During court sessions, the secretary of the court session shall execute the official record in accordance with the rules of Articles 90-92 of this Code.

The official record of the court session shall refer to: venue and date of the court session with indication of time of the commencement and completing thereof; the name and composition of court; the secretary of the court session, interpreter/translator, accuser, defense counsel, defendant, victim and his representative, civil plaintiff, civil respondent and their representatives, and other persons summoned by the court; the case considered; information about the personality of the defendant; witnesses who appeared and who failed to appear, with indication of the reasons therefor. The following shall be entered into the official record: all the orders of the presiding judge, actions taken by the court in the sequence they were taken, statements and motions filed by the participants in the proceedings; detailed content of the testimony given by the defendant, victim, and witnesses; answers of the forensic examiner to the questions he is asked; sequence of judicial pleadings, conclusions made by participants in the pleadings, and the content of the last plea of the defendant; statements on circumstances, which took place during consideration of the case, if doing so is requested by the participants in the proceedings.

If the court finds it necessary, witnesses and victims shall sign in the official record of the court session the testimony, which they have given.

The official record shall be signed by the presiding judge and the secretary of the court session.

In the instance of disagreement between the presiding judge and the secretary of the court session as to the content of the official record, the secretary must attach his comments to the official record, and these comments shall be considered by the panel of the court. There shall be a finding rendered on this issue, which shall be attached to the official record.

Shorthand may be used for ensuring completeness of the official record. Shorthand notes shall not be included in the case file. Audio and video recording, and filming may be used during court session. In this instance, a phonogram, videotape, and a film shall be attached to the official record of the court session, with a note on the use of these means being entered in the official record.

The official record of the court session must be signed not later than the following day after entering the sentence, and not later than three days – on complex cases.

#### **Article 427. Comments on Official Record of Court Session and Procedure for Their Consideration**

Within five days after signing the official record of the court session, the parties may present their comments thereon. Comments shall be considered by the presiding judge who shall certify that they are correct and include them in the official record of the court session if he agrees with the comments.

In the instance of disagreement of the presiding judge with the comments on the official record of the court session, they shall be presented for consideration by the panel of the court, which considered this case. If the case was considered by a single judge, the decision of the presiding judge shall be final, but it may be complained against by interested parties or protested against in accordance with the procedure envisaged by this Code.

### **CHAPTER 51. PREPARATORY PHASE OF COURT SESSION**

#### **Article 428. Opening a Court Session**

The presiding judge shall open a court session at the designated time and shall announce which criminal case is subject to trial.

#### **Article 429. Trial Participants Attendance Check Report**

The secretary of the court session shall report on the attendance of the state accuser, public accuser, defendant, defense counsel, public defender, as well as victim, civil plaintiff, civil respondent or their representatives. Thereupon he shall report on the attendance of the interpreter/translator, witnesses, forensic examiners, and expert witnesses. The secretary of the court session shall advise of the reasons for the non-appearance of those absent.

The identity of persons participating in the court session shall be ascertained by passports or other identity papers.

#### **Article 430. Expounding to Interpreter/Translator His Rights, Obligations, and Liability**

The presiding judge shall expound to the interpreter/translator his rights and obligations, as well as liability, as envisaged by Article 72 of

this Code.

#### **Article 431. Announcing Composition of Court, Parties to Trial and Expounding to Them Right to Challenge**

The presiding judge shall announce the composition of the court and advise who shall be the state accuser, public accuser, defense counsel, public defender, victim, civil plaintiff, civil respondent or their representatives, and the secretary of the court session, forensic examiner, expert witness, and the interpreter/translator. Thereupon the defendant and other parties shall be expounded their right to challenge the judge, the entire court, as well as to any of the parties.

If the court session is attended by a reserve people's assessor, the presiding judge shall announce him and call his last name. The reserve people's assessor may be challenged as well.

The submitted challenges shall be disposed of in accordance with the rules of Article 80 of this Code.

#### **Article 432. Removing Witnesses from Courtroom**

The presiding judge shall order removing of witnesses from the courtroom to a separate room. Thereafter he shall take measures that witnesses who have not been examined by the court do not communicate with those who have been examined, as well as with other persons present in the courtroom.

#### **Article 433. Deciding Whether Criminal Case Can Be Examined in Absence of Any Participant in Criminal Proceedings**

In the instance when a summoned participant in criminal proceedings fails to appear, the court shall hear opinions of the parties regarding the possibility of a trial in his absence and render a finding to continue the trial or to postpone it.

If a finding on postponement of the trial has been rendered, the court may question the witnesses and forensic examiner, who appeared. If the case is later considered by the same composition of court or the same judge, repeated summons of the indicated participants in the proceedings shall be allowed only when necessary.

#### **Article 434. Ascertaining Identity of Defendant and Time of Service of Procedural Documents**

The presiding judge shall ascertain the identity of the defendant, asking for his last name, first name, patronymic, the year, month, day and place of birth, place of residence, occupation, educational background, family status, and other information pertaining to his personality.

Thereupon the presiding judge shall ascertain whether and when the defendant has been served a copy of the indictment, and copies of procedural documents envisaged in paragraph 2 of Article 388 of this Code. The consideration of the case shall be postponed, if the defendant was not served the copies of those documents or if he was served them less than three days before the commencement of the court session.

#### **Article 435. Expounding to Defendant His Rights**

Having ascertained the identity of the defendant, the presiding judge shall expound to him his rights at the trial envisaged in Article 46 of this Code. Thereupon the defendant shall be asked whether he understands each of these rights. If the answer is negative, the presiding judge shall repeatedly expound to him his rights, taking into account thereat the age of the defendant, his level of general development, and his mental and physical condition.

#### **Article 436. Expounding to Parties Their Rights and Obligations**

The presiding judge shall expound to the public accuser, public defender, as well as to the victim, civil plaintiff, civil respondent and their representatives rights and obligations at trial, envisaged respectively in Articles 43, 44, 55, 57, 59, 61, and 63 of this Code.

#### **Article 437. Expounding to Forensic Examiner and Expert Witness Their Rights and Obligations**

The presiding judge shall expound to a forensic examiner and expert witness their rights and obligations at trial envisaged respectively in Articles 68 and 70 of this Code.

#### **Article 438. Submitting and Disposing of Motions**

The preparatory phase of court session shall be concluded by clearing whether there are motions to file. The presiding judge shall ask the parties whether they have motions to summon new witnesses, forensic examiners, or expert witnesses or request physical evidence or documents. The party filing a motion must indicate for establishing what particular circumstances additional evidences are required.

Considering each motion filed by a party, the court shall hear the opinion of the adverse party and grant the motion if it concerns clearing the circumstances relevant to the case, and otherwise deny it.

Denial to grant the motion shall not deprive the person of his right to file this motion repeatedly on other grounds later in trial.

The court shall be empowered to render a finding, at its own initiative, on summoning new witnesses, assigning forensic examination, requesting documents and other additional evidences.

If the court finds it necessary to examine additional evidences, it shall either continue the hearing and simultaneously take measures to ensure appearance of new witnesses and forensic examiners, or requesting documents, or postpone the session.

### **CHAPTER 52. JUDICIAL INVESTIGATION**

#### **Article 439. Commencement of Judicial Investigation**

The presiding judge shall announce the commencement of judicial investigation. Judicial investigation shall begin with reading out the

indictment. The presiding judge shall ask the defendants whether they admit their guilt.

#### **Article 440. Determining Sequence for Examining Evidence**

Having asked the defendants whether or not they admit their guilt, the court shall hear proposals of the parties on the sequence for examining evidence. This sequence shall be set in a finding of the court.

If examination of evidence began with questioning of the defendants, the court shall thereupon question the victims. If the defendants refuse to give testimony or disagree to give testimony before other evidence is examined, the court shall, basing on particular circumstances of the case and with due regard to the proposals of the parties, decide on the sequence of questioning of victims, witnesses, conduct of viewing, physical examination, reading out of written evidence, conduct of forensic examinations, and other investigative actions.

#### **Article 441. Oath of Witness and Advising Him of Liability**

Before the questioning of a witness, the presiding judge shall ascertain his identity and advise him of the liability for refusal to give testimony and for giving knowingly false testimony. Thereupon the presiding judge suggests the witness to publicly give an oath, as follows: 'I swear to tell the court everything I know on the case. I shall tell the truth, all truth, and nothing but truth'. The text of the oath, along with a signed statement about being advised of his obligations and liability, shall be attached to the official record of the court session.

A witness under sixteen years of age shall also be suggested to publicly give an oath, envisaged in paragraph 1 of this Article; however he shall not be advised of liability for refusal to give testimony and giving knowingly false testimony, and to sign the statement.

#### **Article 442. Procedure for Questioning in Court**

Questioning in court shall be conducted in compliance with the requirements of Articles 96-108 of this Code and the below rules.

Each witness shall be questioned in the absence of the witnesses, who have not yet been questioned. Questioned witnesses shall remain in the courtroom and may leave it before the end of judicial investigation only upon consent of the court.

When it is necessary for establishment of the issue, the court may render finding to question a juvenile witness in absence of the defendant. Upon return of the defendant to the courtroom, he shall be informed on the testimony of the witness and given an opportunity to ask questions to this witness.

Upon the completion of his questioning, a witness under sixteen years of age shall be removed from the courtroom, except for cases when the court considers his further presence necessary.

A victim, forensic examiner, and expert witness shall be entitled to be in the courtroom during the entire court session and be present at all questionings.

At the beginning of questioning of the defendant, the presiding judge shall suggest the defendant to give testimony regarding the circumstances of the case known to him. Thereupon the defendant shall be questioned by the state accuser, public accuser, as well as the victim, civil plaintiff and their representatives, defense counsel, public defender, civil respondent and his representative. Thereupon the defendant may be asked questions by other defenders and their defense counsels.

The procedure set in paragraph 6 of this Article shall be applicable to questioning of victims, as well as witnesses and forensic examiners summoned to the court session in accordance with the list attached to the indictment, or additionally summoned under a motion of the prosecution. If witnesses and forensic examiners are summoned under a motion of the defense, questioning shall first be started by the defendant or his defense counsel who filed the motion, and then other defenders and their defense counsels, public defender, civil respondent and his representative, state accuser, public accuser, as well as victim, civil plaintiff and their representatives.

The presiding judge and people's assessors shall be entitled to ask questions to any person being questioned at any stage of judicial investigation.

The persons, who have already given testimony at the court session, may be asked supplementing and specifying questions upon the consent of the court.

#### **Article 443. Examination of Written Evidence, Reports of Forensic Examiners, and Official Records of Investigative Actions**

Under motions of the parties or at the initiative of the court the presiding judge, one of the people's assessors, or the secretary of the court session shall read out written evidence, reports of forensic examiners, and official records of investigative actions, which have been attached to the case file at the stage of inquiry and pretrial investigation and may be of significance to the case.

The court shall read out and present to the parties the documents proffered to the court by its request or at the initiative of other persons; the parties shall speak out their opinion on the significance of these documents to the case. Thereupon the court shall render a finding to include these documents in the case file or to return them to where they come from.

#### **Article 444. Conduct of Viewing**

The court shall conduct viewing in compliance with the requirements envisaged in Articles 135-141 of this Code and the below rules.

The court shall examine the physical evidence, included in the case file at the stage of inquiry and pretrial investigation, as well as objects presented at trial by the parties and other persons, in the courtroom with participation of the parties. The court may also engage forensic examiners, expert witnesses, and witnesses to participate in the viewing.

The court shall conduct viewing of a site, buildings, constructions, premises, vehicles and other objects, which cannot be delivered to the courtroom, at their location with participation of persons indicated in paragraph 2 of this Article.

#### **Article 445. Physical Examination**

The court shall conduct physical examination at judicial investigation in compliance with the requirements envisaged in Articles 142-147 of this Code and the below rules.

Physical examination involving baring of a person shall be conducted in a separate facility by a medical doctor or another specialist with participation of attesting witnesses of the same sex with the person to be physically examined. Upon the completion of physical examination, the indicated participants in the proceedings shall return to the courtroom, where, in the presence of the parties, examined person, and attesting witnesses, the doctor or another specialist shall inform the court on traces and marks on the body of the examined person, if any have been discovered, and shall answer questions from the parties and judges. This information, as well as comments and explanations of the examined person and attesting witnesses, shall be entered in the official record of the court session and certified by signatures of the doctor or another specialist, examined person and attesting witnesses.

#### **Article 446. Forensic Examination**

Forensic examination in judicial investigation shall be assigned and conducted in compliance with the requirements prescribed in Articles 172-187 of this Code and the below rules.

Forensic examination in a court session shall be conducted by forensic examiners, who have already produced report at pretrial investigation, or new forensic examiners appointed by the court, or the former and the latter forensic examiners together.

Under a motion of a party or at its own initiative, the court shall render and read out in the court session a finding on assigning a forensic examination. The finding shall refer to, as follows: the person or forensic institution, which is assigned to conduct forensic examination, and the questions posed to the forensic examiner. At this, the court shall expound to the parties their right to challenge the forensic examiner, file motions to engage as a forensic examiner a person additionally indicated therein, to pose additional questions to the forensic examiner, to conduct forensic examination in the presence of the parties, as well as the right to give explanations during the forensic examination.

The court shall consider motions or challenges to the forensic examiner in compliance with the rules envisaged by Article 80 of this Code.

During judicial investigation, forensic examiner shall be entitled to ask questions to the persons being questioned, get familiarized with written evidence, official records of investigative actions, reports of other forensic examiners, participate in views, experiments, and other judicial actions related to the object of forensic examination.

During judicial investigation, additional questions may be posed to the forensic examiner.

Upon the completion of examination of circumstances, related to the object of forensic examination, the court shall give the forensic examiner time for preparation of his report. If in this connection there is a need in laboratory research, the court shall give respective objects to the forensic examiner.

The forensic examiner shall read out his report during the court session. The report shall be attached to the official record of the court session.

After giving the report, the forensic examiner may be questioned in court session on the contents of the report.

#### **Article 447. Presentation for Identification, Conduct of Experiment, Obtaining Samples for Forensic Expert Examination**

Presentation for identification, experiment, and obtaining samples for forensic expert examination in judicial investigation shall be conducted in accordance with the rules prescribed by Articles 125-131, 153-156, 188-197 of this Code. The parties shall be entitled to file motions and make comments concerning the indicated judicial actions.

The court shall be entitled to request the head of inquiry agency or the investigator to assist in conduct of these actions.

The course and results of presentation for identification, experiment, obtaining samples for forensic expert examination, as well as the motions filed, comments made, and explanations given in connection therewith, shall be entered in the official record of the court session.

#### **Article 448. Completion of Judicial Investigation**

Upon examination of all evidence, the presiding judge shall ask the parties whether they wish to add something to the judicial investigation and in what way. If there are motions filed thereon, the court shall discuss and resolve them.

Upon completion of additional actions required for granting motions, the presiding judge shall announce the judicial investigation completed.

### **CHAPTER 53. JUDICIAL PLEADINGS AND LAST PLEA BY DEFENDANT**

#### **Article 449. Content and Procedure for Judicial Pleadings**

Upon the completion of judicial investigation, the court shall proceed to hearing judicial pleadings. Judicial pleadings shall begin with speeches of state and public accusers. Then shall speak the victim, civil plaintiff or their representatives, defense counsel, public defender, defendant, civil respondent or his representative.

Sequence of speeches of the state and public accusers, as well as the defense counsel and public defender shall be set by court upon their proposals.

The parties shall not refer in their speeches to the evidence, which has not been examined during court hearing. When it is necessary to present to the court new evidence for examination, they may file a motion to reopen judicial investigation.

State accuser, basing on the results of judicial investigation, shall in his speech reason his conclusion on guilt or innocence of the

defendant. Having come to the conclusion that the defendant is guilty, state accuser shall set forth to the court his opinion on the type and extent of penalty to be imposed on the defendant.

After the parties make their speeches, each of them shall be entitled to speak again with objections or comments concerning the content of speeches of the other parties. The defense counsel and defendant shall always be entitled to be the last to object.

The court may not impose a time limit on the judicial pleadings, but the presiding judge shall be entitled to stop the participants in the judicial pleadings when they refer to the circumstances, which are not relevant to the case under consideration.

#### **Article 450. Proposals of Parties on Essence of Charge**

Upon the completion of judicial pleadings, the parties may present to the court, in writing, the proposed formulation of decision on the issues envisaged in subparagraphs 1-6, paragraph 1 of Article 457 of this Code. It shall be binding to present to the court such a formulation for the state accuser and defense counsel.

#### **Article 451. Last Plea by Defendant**

Upon the completion of the judicial pleadings, the presiding judge shall invite the defendant to make his last plea. No questions shall be put to the defendant as he makes his last plea.

The court may not impose a time limit on the last plea by the defendant; however, the presiding judge may stop the defendant when the defendant refers to the circumstances that are irrelevant to the criminal case being considered.

#### **Article 452. Reopening of Judicial Investigation**

If the participants in the judicial pleadings or the defendant in his last plea disclose new circumstances that are of significance for the criminal case or refer to the evidence, which has not been previously examined, but is relevant to the case, the court shall, pursuant to a motion of the parties or at its own initiative, render a finding on reopening of judicial investigation. Upon the completion of the reopened judicial investigation, the court shall reopen judicial pleadings and invite the defendant to make the last plea.

#### **Article 453. Retirement of Court to Separate or Deliberation Room to Enter Sentence**

Having heard the last plea by the defendant, the court shall retire to a separate or deliberation room to enter a sentence that shall be announced by the presiding judge to those present in the courtroom.

### **CHAPTER 54. SENTENCE**

#### **Article 454. Entering Sentence**

The court shall enter sentence on behalf of the Republic of Uzbekistan.

#### **Article 455. Legality, Validity, and Fairness of Sentence**

A sentence must be lawful, valid, and fair.

A sentence shall be deemed lawful if entered in compliance with all requirements of law and based on law.

A sentence shall be deemed valid if factual circumstances of the case are established in necessary completeness and exact correspondence to what actually happened.

A sentence shall be deemed fair if the penalty or other correctional measure to the guilty is determined in compliance with the degree of social danger of the committed crime and his personality, and the innocent is acquitted and rehabilitated.

The court shall found the sentence only on the evidence that has been examined during court hearing.

All conclusions of the court in the sentence shall be reasoned.

#### **Article 456. Secrecy of Conference of Judges**

The judge shall enter the sentence in a separate room, and the court – in a deliberation room. Only judges, who are in the composition of court on this case, may be present in these rooms. Presence of other persons shall not be allowed.

The court shall be entitled to suspend the conference with the coming of nighttime and, when necessary, during working hours. The conference shall be equally suspended for weekend and holidays. The judges shall have no power to disclose propositions expressed while discussing and entering the sentence.

#### **Article 457. Issues to Be Decided by Court while Entering Sentence**

While entering a sentence in the separate or deliberation room, the court shall decide the following issues:

1. whether the act the defendant is charged with occurred;
2. whether the act constitutes a crime and under what Article of the Criminal Code it is punishable;
3. whether the act was committed by the defendant;
4. whether the defendant is guilty of committing the crime, and what the form of his guilt is;
5. whether there are circumstances that mitigate or aggravate the liability of the defendant;
6. whether the defendant is subject to penalty for the crime committed by him;
7. what penalty must be imposed on the defendant and whether he must serve it;
8. whether the defendant shall be recognized a special dangerous recidivist in accordance with Article 34 of the Criminal Code;
9. a colony of what level of security the convicted to imprisonment shall be committed to, and whether he shall serve a part of the sentence in prison;

10. whether the civil suit is subject to satisfaction, for whose benefit, and in what amount, and, if the civil suit has not been brought, whether the pecuniary damage caused by the crime is subject to satisfaction, and whether defendants shall bear joint or shared responsibility;
11. how to dispose of property attached for the purpose of securing the civil suit; (*As amended by law of 29.08.2001*)
12. how to dispose of physical evidence;
13. to whom the court costs shall be assessed and in what amount;
14. whether to impose, continue, alter, or revoke the measure of restraint in respect to the defendant;
15. whether compulsory medical measures shall be applied in respect to the defendant, or whether he shall be committed under guardianship.

If the defendant is charged with committing several crimes, the court shall decide the issues referred to in subparagraphs 1-8 of this Article for each crime individually.

If several defendants are charged with committing the same crime, the court shall decide the issues, referred to in this Article, for each defendant individually.

Compulsory medical measures, envisaged in subparagraph 15 of this Article, may be applied only when there is a respective report of a forensic examiner.

If court hearing reveals one of the circumstances, envisaged in subparagraphs 1-4, paragraph 1 of Article 533 of this Code, the court must discuss the question whether the sentence shall be suspended as envisaged by law.

#### **Article 458. Deciding Issue of Mental Disease and Insanity of Defendant**

In the instances when during the inquiry, pretrial investigation or court hearing a question emerged on the mental disease of the defendant or his insanity, the court must discuss this question again while entering the sentence. Having ascertained that the defendant was in the state of insanity while committing the socially dangerous act or acquired a mental disease after committing the offense, which disease rendered the defendant unable to perceive his actions or direct them, the court shall render a finding under Article 577 of this Code.

#### **Article 459. Discussing Issue of Supervision of Conditionally Sentenced**

When applying a conditional sentence, the court shall decide who shall be responsible for supervision of the conditionally sentenced person.

If there is a motion of a public organization or collective on conditional sentence, the court may transfer the conditionally sentenced person to this organization or collective for supervision of his behavior.

#### **Article 460. Procedure for Judge's Conference**

If the case was considered by a multiple-member court, the rendering of the sentence shall be preceded by a conference of judges under chairmanship of the presiding judge, who shall put questions in the sequence envisaged in Article 457 of this Code. Each question must be put so that the answer to it is either positive or negative. After giving an answer, the judge may state his motives thereto.

While deciding each question, none of the judges shall have a right to abstain from voting. All questions shall be resolved by simple majority of votes. The presiding judge shall be the last to vote.

An opinion which is the most favorable for the defendant shall be the first on vote. If a judge or judges, who spoke for acquittal, are a minority, and the other judges discord in opinions on classification of the crime or the penalty, then the vote or votes cast for acquittal shall be added to the vote to classify the offense under an Article of the Criminal Code of a lesser penalty.

If the case was considered by a single judge, he shall personally decide the issues envisaged in Articles 457-459 of this Code.

#### **Article 461. Reopening Judicial Investigation**

If, during the discussion on the issues envisaged in Article 457-459 of this Code in a separate or deliberation room, the court finds it necessary to clarify additionally some circumstances that are of significance for the case, it shall render a finding on reopening judicial investigation without entering sentence. Upon the completion of the reopened judicial investigation, the court shall reopen judicial pleadings and hear the last plea of the defendant.

#### **Article 462. Types of Sentences**

A sentence of court may be of conviction or of acquittal. When deciding what sentence shall be entered in respect to the defendant, the court must be directed by the requirements of the presumption of innocence, envisaged in Article 23 of this Code.

#### **Article 463. Grounds for Entering Sentence of Conviction**

A sentence of conviction may not rest upon suppositions and shall be entered only provided that the guilt of the defendant in committing the crime has been proved in court hearing. Credible evidence, which has been obtained in result of review of all circumstances of commission of a crime on the case, filling in of all deficiencies revealed in case file materials, and resolving of all doubts and contradictions, must underlie the sentence of conviction.

The court shall enter a sentence of conviction with relieving the convicted from serving the penalty if, as follows:

1. a bill of amnesty has been passed relieving of serving the penalty imposed on the convicted by the sentence;
2. the time spent by the person in custody before entering the sentence, calculated in compliance with the rules of credit for time in pretrial detention envisaged in Article 62 of the Criminal Code, is equal to or exceeds the extent of penalty imposed by court.

The court shall enter a sentence of conviction without imposing a penalty if, as follows:

1. a bill of amnesty has been passed that excludes imposing penalty for the crime committed by the convicted;

2. statute of limitations for engaging a person in the case as an accused for the crime concerned has expired;
3. by the time of entering the sentence, the committed act has lost its social dangerousness, or the person who has committed the act is no more socially dangerous;
4. correction of the convicted may be achieved by measures of social persuasion, used by public organizations and collectives, or by administrative measures;
5. the defendant has died by the time of entering the sentence.

#### **Article 464. Grounds for Entering Sentence of Acquittal**

A sentence of acquittal shall be entered if:

1. the crime has not occurred;
2. the act committed by the defendant does not contain the elements of crime;
3. the defendant was not involved in the commission of the crime.

The court shall acquit the defendant on the ground envisaged in subparagraph 3, paragraph 1 of this Article if it was established that the offense has been committed by another person, and if, after a thorough examination of circumstances of the case, the charges brought in respect to the defendant were not ascertained. If, when entering a sentence of acquittal for this ground, the person who has committed the crime is not identified, the court shall, after the sentence takes legal effect, refer the case to the prosecutor for taking measures to identify this person and engaging him in the case as an accused.

#### **Article 465. Drawing up Sentence**

Upon deciding issues referred to in Articles 457-459 of this Code, the court shall proceed to drawing up the sentence. It shall be drawn up in the language of the trial, in clear and understandable phrases, and consist of an introductory part, a descriptive part, and an operative part.

A sentence shall be written by hand or with use of technical equipment by one of the judges, who participated in its rendering, or by a judge, who rendered it in a single-judge proceeding. Corrections in a sentence shall be noted and certified with signature of the judge or judges before the sentence is pronounced.

#### **Article 466. Introductory Part of Sentence**

The introductory part of a sentence shall refer to, as follows:

1. the date and venue of entering sentence;
2. the name of the court having entered sentence, composition of the court, the secretary of the court session, the parties, interpreter/translator;
3. the last name, first name, and patronymic of the defendant, year, month, day and place of his birth, residence, place of employment, occupation, educational background, family status, and other information on the personality of the defendant that is of significance for the case;
4. Article of the Criminal Code providing for the offense the defendant is charged with.

#### **Article 467. Descriptive Part of Sentence of Conviction**

The descriptive part of a sentence of conviction must contain a description of the criminal act found by the court to be proved, with the reference to the place, time and mode of its commission, the nature of the guilt, motives, objectives, and consequences of the offense. The sentence shall quote the evidence upon which the conclusions of the court regarding each defendant rest, and the reasons for which other evidence was turned down by the court. There shall be a reference to circumstances mitigating or aggravating penalty, and reference to the grounds and reasons for modifying the charge if a part of the charge is found invalid or an erroneous classification of the offense was ascertained.

The court also shall reason, as follows: imposing a penalty in the form of imprisonment, if a sanction of the Article of the Criminal Code foresees other penalties as well; imposing of imprisonment of a certain security level in a colony, or imposing of imprisonment in a prison; recognizing him as a special dangerous recidivist; imposing of conditional conviction; imposing a penalty below the lowest limit envisaged in a respective Article of the Criminal Code for this crime; choosing a lesser penalty; assignment of a type of colony with deviation from general rules; relieving the defendant from serving the penalty with or without application of other measures.

If the court, in accordance with law, finds it necessary to apply compulsory medical measures in respect to the defendant or place him under guardianship, it must indicate reasons for such a decision.

If there is a motion filed by a public organization or a collective on conditional conviction of the defendant and on his transfer thereto for conducting educational work in his regard, the court shall indicate in the sentence reasons for granting or denying these motions.

The court must also indicate reasons, which ground the decision on the brought civil suit or the decision on recovery of pecuniary damage, caused by crime, taken at the initiative of the court.

#### **Article 468. Operative Part of Sentence of Conviction**

The operative part of a sentence of conviction shall refer to:

1. the last name, first name, and patronymic of the defendant;
2. the decision to find the defendant guilty of committing the crime;
3. Article (paragraph, subparagraph) of the Criminal Code under which the defendant was found guilty, and finding the person a special dangerous recidivist if such a decision was taken by the court;
4. the type and the extent of the penalty imposed on the defendant for each offense of which the defendant was found guilty; the final sentence to be served under Articles of the Criminal Code; the type and security level of the colony in which the convicted person sentenced to imprisonment must serve it;
5. the probation period, collective or person who are charged to supervise the convicted if a conditional conviction is imposed;
6. the decision to apply credit for time in pretrial detention when imposing the penalty;
7. the decision concerning a measure of restraint in respect to the defendant until the sentence takes legal effect;
8. the obligations imposed on the convicted person;

9. the decision to suspend the sentence when there are grounds envisaged in Article 533 of this Code.

If the charge was brought against the defendant under several articles of the Criminal Code, the operative part of the sentence shall specify the articles under which the defendant was acquitted and those under which he was convicted.

If the defendant is relieved of serving the sentence, the operative part of the sentence shall refer thereto.

In any instances, the penalty shall be indicated so that there may be no doubts as to the type and extent of penalty imposed by the court.

#### **Article 469. Descriptive Part of Sentence of Acquittal**

the descriptive part of a sentence of acquittal shall set forth: the nature of the charge brought against the defendant; the circumstances of the criminal case, ascertained by the court; the evidence underlying the conclusion of the court on innocence of the defendant; the reasons why the court finds non-credible or insufficient the evidence underlying the assertion that the defendant is guilty in commission of the crime, or the reasons why the court believes that the crime did not occur, or that the act committed by the defendant is not a crime; the reasoning for the decision regarding the civil suit.

#### **Article 470. Operative Part of Sentence of Acquittal**

The operative part of a sentence of acquittal shall refer to:

1. the last name, first name, and patronymic of the defendant;
2. the decision to find the defendant not guilty and to acquit him;
3. the decision to revoke the measure of restraint, imposed on the defendant; if the detention was imposed as a measure of restraint – to release the acquitted immediately in the courtroom;
4. the decision to revoke measures securing the brought civil suit, if the suit was denied;
5. *(Excluded by the Law of 29.08.2001)*
6. recognition of the right of the acquitted to have pecuniary damages recovered and the consequences of the moral and other damage eliminated pursuant to the procedure envisaged in Articles 304-313 of this Code.

#### **Article 471. Other Issues to Be Decided in Operative Part of Sentence**

In addition to the issues referred to in Articles 468 and 470 of this Code, the operative part of a sentence of both conviction and acquittal shall contain:

1. a decision concerning the civil suit filed, or a decision on compensation for damage at the initiative of the court, taken in compliance with Articles 283-289 of this Code;
2. a decision on physical evidence and other objects and documents attached to the case file, taken in compliance with Article 289 of this Code;
3. a decision concerning the procedural costs, taken in compliance with Article 320 of this Code;
4. procedure and time limits of cassation complaining and protesting against the sentence, envisaged in Articles 499 and 500 of this Code.

#### **Article 472. Signing Sentence and Dissenting Opinion of Judge**

The sentence shall be signed by the judge if it is entered by a single judge, and the sentence shall be signed by judges if it is entered by a multiple-member court. A judge who was a minority vote, shall, having signed the sentence, be entitled to state, in writing, his dissenting opinion. He must write this opinion in the deliberation room. The dissenting opinion shall be attached to the case file, but it shall not be read out in the courtroom.

If the case, on which there is a dissenting opinion, was not considered in the cassation instance, it shall, after the sentence has taken legal effect, be sent to the presiding judge of a higher court, who, after having studied the case file, must decide the issue of bringing a protest against the sentence by way of supervision procedure.

#### **Article 473. Pronouncement of Sentence**

After the sentence is signed, the court shall return to the courtroom and the presiding judge or a people's assessor shall pronounce the sentence.

All those present in the courtroom, including the panel of the court, shall stand as the sentence is pronounced.

If the sentence is set forth in a language which the defendant does not speak or has an insufficient command of, an interpreter/translator shall, after the pronouncement of the sentence, interpret it into the native language of the defendant or another language which he understands.

The presiding judge shall explain to the defendant and other parties the contents of the sentence, procedure and time limits for complaining against it by way of appellate or cassation procedures, at their option. If the defendant on trial is sentenced to death penalty, the presiding judge shall expound to him the right to petition for pardon. *(As amended by the Law of 14.12.2000).*

#### **Article 474. Releasing Defendant from Custody**

The defendant held in custody shall be immediately released in the courtroom in the instances of his acquittal; entering a sentence of conviction without imposing a penalty or with relieving from serving thereof; imposing conditional conviction; entering a sentence of conviction with imposing a penalty not connected with imprisonment, as well as with imposing imprisonment for the term that does not exceed the term spent in pretrial detention.

#### **Article 475. Serving Copy of Sentence on Convicted and Acquitted**

The copies of the sentence shall be served on the convicted and acquitted not later than three days after the sentence was pronounced; if the sentence is voluminous - not later than ten days thereafter. A copy of the sentence or an abstract thereof shall be served on to other parties by their request within the same time limits.

## **Article 476. Other Issues Decided by Court at Time of Entering Sentence**

If the convicted sentenced to imprisonment has minor children, aged parents, and other dependants, who are left without care and help, the court, at the time of entering a sentence of conviction, shall render a finding to place such dependants in care or under surveillance of immediate relatives or other persons and institutions; and if the convicted has property or dwelling left without supervision the court shall render a finding of taking measures to ensure protection of such property or dwelling.

If an advocate participated in a case as a defense counsel, appointed under Article 50 of this Code, the court, pursuant to a motion of a head of an advocate bureau, collegium, or firm, shall decide the issue on collection from the convicted of remuneration in favor of the advocate bureau, collegium, or firm and on the size of this remuneration.

## **Article 477. Granting Visitation with Convicted**

After the pronouncement of a sentence, the presiding judge in the criminal case or the chief judge of the court shall grant a possibility of a visitation with the convicted held in custody to his relatives, upon their request, and to his defense counsel.

### **SECTION ELEVEN. VERIFICATION OF LEGALITY, VALIDITY, AND FAIRNESS OF SENTENCES, FINDINGS, AND RULINGS**

#### **CHAPTER 55. GENERAL TERMS OF VERIFICATION OF LEGALITY, VALIDITY, AND FAIRNESS OF SENTENCES, FINDINGS, AND RULINGS**

## **Article 478. Types of Verification of Legality, Validity, and Fairness of Sentences, Findings, and Rulings**

Legality, validity, and fairness of sentences, findings, and rulings of the court may be verified by way of appellate, cassation, and supervision procedures.

Consideration of a case by a higher court shall be conducted as follows:

1. by way of appellate procedure – under complaints and protests brought by persons, indicated in Article 497<sup>2</sup> of this Code;
2. by way of cassation procedure – under complaints and protests brought by persons, indicated in Article 498 of this Code;
3. by way of supervision procedure – under the protest brought by the chief judge of the court, prosecutor or their deputies, who are entitled by law to bring protest, and in view of newly discovered circumstances – under the protest brought by the prosecutor or his deputy, who is entitled by law to bring protest.

*(As amended by the Law of 14.12.2000)*

## **Article 479. Right to Bring Complaint or Protest against Judicial Decisions, and Its Securing**

Trial participants, indicated in Articles 497<sup>2</sup>, 498, and 516 of this Code, shall be entitled, in compliance with law, to bring a complaint or protest against a sentence and finding of the court of first instance by way of appellate or cassation procedure, and to file motions to review judicial decisions by way of supervision procedure. At this, they may produce supplementary materials in corroboration of their arguments.

If an appellate, cassation, or supervision complaint or protest have been brought, the court shall notify the participants in the trial, whose interests are concerned thereby, and simultaneously refer the copies of these documents to the convicted, victim, and acquitted. The said persons shall be entitled to get familiarized with the case file, including additionally produced materials, and shall inform the court on their objections.

The person, who has brought an appellate or cassation complaint, as well as the participants in the trial whose interests are concerned by the complaint or protest, shall be notified by the court of the time and venue of consideration of the case.

The convicted, acquitted, their defense counsels and legal representatives, victim, civil plaintiff, civil respondent and their representatives shall be entitled to participate in the consideration of the case in the court of appeal. The said persons, except for the convicted, who is in a penitentiary institution, shall also be entitled to participate in consideration of the case by way of appellate and cassation procedure. The court shall decide the issue of necessity for the convicted, who is in a penitentiary institution, to participate in consideration of the case, and of the conveying of the convicted to the hearing of the appellate, cassation, and supervision instances. The failure to appear without a valid reason of the said persons, who have been timely notified of the time and venue of consideration of the case, shall not preclude the consideration thereof. The court may, however, summon the convicted, acquitted, as well as the victim, civil plaintiff, civil respondent and their representatives, to give explanations.

*(As amended by the Law of 14.12.2000).*

## **Article 480. Participation of Prosecutor in Consideration of Case by Higher Court**

The prosecutor shall participate in consideration of a case by way of appellate, cassation, or supervision procedure.

In consideration of a case, the following persons shall participate:

1. in collegiums of the Supreme Court of the Republic of Uzbekistan, Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, Military Court of the Republic of Uzbekistan – the prosecutor authorized by the General Prosecutor of the Republic of Uzbekistan, prosecutor of the Republic of Karakalpakstan, of the region, Tashkent City, Military Prosecutor of the Republic of Uzbekistan respectively;
2. in presidiums of the Supreme Court of the Republic of Uzbekistan, Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, Military Court of the Republic of Uzbekistan – the General Prosecutor of the Republic of Uzbekistan or his deputy, prosecutor of the Republic of Karakalpakstan, of the region, Tashkent City, Military Prosecutor of the Republic of Uzbekistan respectively;
3. in the Plenum of the Supreme Court of the Republic of Uzbekistan – the General Prosecutor of the Republic of Uzbekistan.

*(As amended by the Law of 14.12.2000).*

#### **Article 481. Presenting Supplementary Materials**

Participants in the proceedings shall be entitled to produce documents, opinions of expert witnesses, and other supplementary materials, which are of significance for the case, to the court of appellate, cassation, and supervision instances. Such materials may also be requested by the court for preparation of the case to hearing. *(As amended by the Law of 14.12.2000).*

Supplementary materials may also be obtained by way of ordering the investigator to conduct investigative actions, envisaged in Articles 149, 170, 290, and 398 of this Code.

#### **Article 482. Extent of Examination of Criminal Case by Court**

When considering a criminal case by way of appellate, cassation, or supervision procedure, the court shall review the legality, validity, and fairness of the sentence, finding, or ruling based on the materials that are available in the case file and that have been additionally produced by participants in the proceedings or requested by the court, and in the instance of reopening the case in view of newly discovered circumstances – on the materials of investigation of these circumstances. *(As amended by the Law of 14.12.2000).*

The court shall go beyond the arguments in the complaint or protest and check the case in full in respect to all convicted, including those who have not brought complaints and in respect to whom complaints or protest have not been brought.

#### **Article 483. Time Limits for Consideration of Criminal Case by Higher Court**

The court of appellate, cassation, or supervision instance shall commence consideration of a criminal case not later than fifteen days after receiving the criminal case file along with a complaint or protest, and the Supreme Court of the Republic of Uzbekistan – not later than within a month thereafter. *(As amended by the Law of 14.12.2000).*

In the instance of particular complexity of the case and other exceptional instances, the chief judge of a respective court may extend this time limit, but no more than by fifteen days, and the Chief Judge of the Supreme Court of the Republic of Uzbekistan or his deputy – by one month.

Interested participants in the proceedings must be notified of the extension of time limits of consideration of the case.

#### **Article 484. Grounds to Reverse or Alter Sentence**

The grounds to reverse or alter the sentence by way of appellate, cassation, or supervision procedure shall be the following:

1. incomplete or biased judicial investigation;
2. inconsistency of the court's findings, set forth in the sentence, with the facts of the criminal case;
3. significant violations of this Code;
4. erroneous application of the Criminal Code;
5. unfairness of the penalty.

If it is impossible to rectify defects of pretrial or judicial investigation in consideration of the case by way of appellate, cassation, or supervision procedure, the sentence shall be subject to reversal.

*(As amended by the Law of 14.12.2000).*

#### **Article 485. Incomplete and Biased Investigation**

Pretrial or judicial investigation shall be considered incomplete or biased in the following instances:

1. the circumstances envisaged in Articles 82-84 of this Code were not ascertained with due completeness;
2. persons, whose testimony could have affected resolution of the case, were not questioned, forensic examination was not conducted when necessary, documents and physical evidence was not requested, and other investigative actions, results of which might have been of significance for the case, were not conducted;
3. circumstances, indicated in the finding or ruling of the court, which sent the case for supplementary investigation, were not examined.

#### **Article 486. Inconsistency of Findings of Court Stated in Sentence with Facts of Criminal Case**

A sentence shall be found inconsistent with the facts of the criminal case if, as follows:

1. the findings of the court are not supported by the evidence examined in the court session;
2. the court has not taken into account the circumstances that might have affected its findings;
3. there exist controversial evidence of substantial significance for the findings of the court, but the sentence does not refer to the grounds upon which the court accepted certain evidence and rejected other;
4. the findings of the court set forth in the sentence contain substantial inconsistencies that affected or might have affected the decision of the question of guilt of the defendant, the proper application of rules of the Criminal Code or determining the penalty, and the higher court does not have a possibility to eliminate these inconsistencies.

#### **Article 487. Significant Violation of Law on Criminal Procedure**

Significant violations of rules of this Code shall be such violations, which denied or restricted the rights of participants in proceedings, prevented the court to consider the case comprehensively, or otherwise have affected or might have affected entering a lawful, valid, and fair sentence.

The sentence shall be reversed if, as follows:

1. the sentence was entered by an illegitimately composed court panel;
2. the procedure for entering a sentence by a single judge or the secrecy of deliberation of judges when entering a sentence was violated;
3. the criminal case was considered in the absence of the defendant, except for the instance envisaged by paragraph 3 of Article 410 of this Code;
4. upon completion of pretrial investigation, the accused did not get familiarized with all case file materials, and this violation was not rectified by

- the court, which rendered the sentence;
5. the defendant, who does not have a defense counsel, was not invited to say his defense plea;
  6. the defendant was denied to make the last plea;
  7. the right of the defendant to use the language he has command of or assistance of an interpreter/translator was violated;
  8. the criminal case was investigated or considered without the participation of a defense counsel when the participation thereof is mandatory under law;
  9. the pretrial investigation and court consideration were conducted regardless of the existence of the circumstances precluding proceedings in the case;
  10. there is no official record of the court hearing, or it is not signed.

#### **Article 488. Erroneous Application of Criminal Code**

The following shall be deemed as erroneous application of the Criminal Code:

1. violation of requirements of the General Part of the Criminal Code;
2. classification of the offense under an Article (paragraph, subparagraph) of the Criminal Code which was different from the one to have been applied;
3. imposition of a penalty, type and extent of which is not envisaged by the appropriate Article of the Criminal Code.

#### **Article 489. Unfairness of Penalty**

The penalty shall be deemed inconsistent with the seriousness of the offense or the personality of the convicted person, or the sentence, which, although not exceeding limits envisaged by the relevant Article of the Criminal Code, is obviously unfair in its type or extent.

#### **Article 490. Powers of Court Considering Criminal Case by Way of Appellate, Cassation, and Supervision Procedure**

Having considered a criminal case by way of appellate, cassation, or supervision procedure, the court shall render one of the following decisions:

1. leave the sentence, court finding, or ruling unaltered;
2. alter the sentence, court finding, or ruling;
3. reverse sentence, court finding, or ruling, and refer the case for supplementary investigation or new judicial consideration, or dismiss the case.

A court of supervision instance, having considered the criminal case, shall reverse the appellate or cassation finding, as well as subsequent judicial findings or rulings, if they have been rendered, and shall refer the case for new appellate or cassation consideration.

A court of appellate instance shall be empowered to conduct judicial investigation in full or in part, and alter the sentence if it is possible to fill the gaps and rectify procedural violations made by the court of first instance.

A court of cassation and supervision instances shall be empowered to conduct judicial investigation in part and alter the sentence if it is possible to fill the gaps and rectify procedural violations made by the court of first instance.

A higher court, if there exist the grounds, shall be empowered to recognize the convicted an special dangerous recidivist, determine a type of educational colony or penitentiary of a higher security, increase the size of compensation for the damage caused by the crime.

A higher court shall be empowered to reverse or alter the sentence in respect to other convicted in its part pertaining to the charges brought or to the civil suit.

*(As amended by the Law of 14.12.2000).*

#### **Article 491. Alteration of Sentence**

If in course of consideration of a case by way of appellate, cassation, or supervision procedure it is ascertained that the court of first instance applied the Criminal Code erroneously or imposed penalty inconsistent with the seriousness of the offense or the personality of the convicted person, the court shall be empowered to properly alter the sentence in compliance with Article 494 of this Code without referring the case to new consideration. *(As amended by the Law of 14.12.2000).*

#### **Article 492. Reversal of Sentence, Finding, or Ruling with Referring Criminal Case for Supplementary Investigation or New Judicial Consideration**

In the instance of reversal of a sentence, finding, or ruling, a higher court shall refer the criminal case for supplementary investigation or to court, which entered the sentence or rendered the finding or ruling, for new consideration of the case by another judge or another composition of the court, or to another court.

#### **Article 493. Reversal of Sentence of Conviction with Dismissal of Criminal Case**

Having considered a criminal case by way of appellate, cassation, or supervision procedure, the court shall reverse the sentence of conviction and dismiss the criminal case if there exist the grounds envisaged in Article 83 and paragraphs 1 and 4 of Article 84 of this Code, and if the evidence examined by the court of first instance is insufficient for recognizing the defendant guilty and the possibilities to collect new evidence have been exhausted. *(As amended by the Law of 14.12.2000).*

#### **Article 494. Impermissibility of Aggravation of Penalty and Application of Statute of More Serious Offense**

The court, when considering a criminal case by way of appellate, cassation, or supervision instance, shall have no power to aggravate penalty and to apply a statute of a more serious offense.

By way of appellate or cassation procedure, a sentence may be reversed and the case sent to a new judicial consideration for reasons of the leniency of the penalty or due to a necessity to apply to the convicted person a statute of a more serious offense only when for these reasons there has been a complaint brought by a victim or a protest brought by the prosecutor.

A sentence of acquittal may be reversed by a higher court only on the basis of an appellate or cassation protest of the prosecutor, complaint of the victim or his representative, or by an appellate or cassation complaint of the acquitted, his defense counsel or legal representatives, as well as under a protest by way of supervision procedure.

*(As amended by the Law of 14.12.2000).*

#### **Article 495. Binding Nature of Instructions of Higher Court**

Instructions of a court has that considered a case by way of appellate, cassation, or supervision procedure, directed towards ensuring necessary completeness and comprehensiveness of examination of the circumstances of a case, and towards rectification of violations of the Criminal Code, shall be binding upon new court consideration of the case.

The court of appellate, cassation, or supervision instances, referring a case for supplementary investigation or for a new judicial consideration, shall have no power to predetermine conclusions of whether the charge have been proven or not, whether certain evidence is reliable or not, whether a certain piece of evidence is more preponderant than others, and regarding classification of the crime and the penalty.

*(As amended by the Law of 14.12.2000).*

#### **Article 496. Contents of Finding or Ruling of Higher Court**

A finding or ruling of a court, considering the criminal case by way of appellate, cassation, or supervision procedure, shall indicate, as follows:

1. time and venue of rendering of the finding or ruling;
2. name and composition of the court, which rendered the finding or ruling, the prosecutor and other persons, who participated in consideration of the case;
3. the person who brought an appellate or cassation complaint, or an appellate, cassation or supervision protest;
4. the content of the operative part of the sentence, finding or ruling, against which a complaint or protest has been brought;
5. the nature of the complaint, protest, objections against them, summary of explanations of participants in the case, and the opinion of the prosecutor;
6. decision of the court on the complaint or protest.

When a complaint or protest is denied, the finding or ruling must indicate the grounds for which the arguments of the complaint or protest are found invalid or insignificant.

In the instance of reversal or alteration of the sentence, finding or ruling, the court of appellate, cassation, or supervision instances must indicate the requirements of which Articles of law have been violated, and what constitutes invalidity of the sentence being reversed or altered.

If the court of appellate, cassation, or supervision instance refers the case for supplementary investigation or new consideration of the case, it must indicate circumstances to be clarified.

The court of appellate, cassation, and supervision instances shall render a private finding, when there exist grounds envisaged in Articles 298 and 300 of this Code, and in the instance of necessity to draw attention of appropriate officials to defects made during inquiry, pretrial investigation and court consideration.

A finding shall be signed by the panel of the court, ruling of the court presidium – by the chief judge, ruling of the Plenum – by the Chief Judge of the Supreme Court of the Republic of Uzbekistan and the secretary of the Plenum. The rendered finding or ruling shall be immediately announced in the courtroom by the presiding judge or one of the judges from the composition of the court.

*(As amended by the Law of 14.12.2000).*

#### **Article 497. Referring Finding or Ruling for Execution**

Not later than within five days after rendering a finding or ruling, it shall be sent along with the criminal case file for execution to the court, that has entered a sentence or appellate or cassation finding, or to another court, and in the instance of referring the case for supplementary investigation it shall be sent to the prosecutor, who approved the indictment.

Finding or ruling, pursuant to which a convicted shall be released from custody, shall be executed in the courtroom, if the convicted is participating in the court session. Otherwise, the court shall refer a copy of the finding or ruling, not later than twenty-four hours after rendering thereof, to the administration of a penitentiary institution.

*(As amended by the Law of 14.12.2000).*

### **CHAPTER 55<sup>1</sup>. APPELLATE PROCEDURE\***

#### **Article 497<sup>1</sup>. Decisions Subject to Bringing Complaint and Protest against by Way of Appellate Procedure**

Sentences of court, which has not taken legal effect, may be complained or protested against by way of appellate procedure.

Findings of a court of first instance, rendered during trial, may be complained and protested against by way of appellate procedure simultaneously with the sentence.

#### **Article 497<sup>2</sup>. Persons Who Have Right to Bring Complaint and Protest against Sentence by Way of Appellate Procedure**

The convicted, his defense counsel and legal representative, as well as the victim and his representative shall be entitled to bring a complaint against the sentence that has not taken legal effect, and the prosecutor or his deputy shall be entitled to bring a protest against it.

Civil plaintiff, civil respondent and their representatives shall be entitled to complain against the sentence in the part pertaining to the civil suit.

The acquitted, his defense counsel and legal representative shall be entitled to bring a complaint against the sentence in the part pertaining to the reasons and grounds for acquittal.

The persons specified in paragraphs 1, 2, and 3 of this Article shall be entitled to bring a complaint or protest against a finding of a court of appeal by way of supervision procedure.

### **Article 497<sup>3</sup>. Procedure for Bringing Appellate Complaint and Protest against Sentence**

Sentences of the following courts, which have not taken legal effect, may be complained and protested against by way of appellate procedure:

1. district (city) courts on criminal cases – to the Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases;
2. military district and territorial military courts – to the Military Court of the Republic of Uzbekistan.

Appellate complaints and protests against sentences of the Supreme Court of the Republic of Uzbekistan, Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, as well as against the sentences of the Military Court of the Republic of Uzbekistan, shall be considered by the same courts.

Appellate complaints and protests shall be brought to the court, which entered the sentence. In the instance if the complaint or protest was brought directly to a court of appeal, it shall refer them to the court that has entered the sentence in order to comply with the requirements of paragraphs 2, 3, and 4 of Article 479 of this Code.

### **Article 497<sup>4</sup>. Time Limits for Bringing Appellate Complaints and Protests against Sentence**

Appellate complaints and protests against a sentence of a court of first instance may be brought within ten days from the day of the pronouncement of the sentence, and the convicted, acquitted, and victim may bring a complaint within the same time limit from the day a copy of the sentence was served on them.

A criminal case shall not be evoked from the court within the time limit set for bringing complaint against the sentence. Within this period, the parties shall be entitled to get familiarized with the case file in the courthouse.

A complaint or protest filed upon expiration of the time limit shall be denied consideration with notification to that effect of the persons who filed that complaint or protest.

### **Article 497<sup>5</sup>. Procedure for Extending Time Limit for Bringing an Appellate Complaint or Protest**

If the statutory deadline for bringing an appellate complaint or protest has been missed for a valid reason, the persons entitled to file an appellate complaint or protest may move before the court having entered the sentence, to extend the missed deadline. If required, this issue shall be resolved with the participation of the person who filed the motion.

Denial to extend the missed statutory deadline may be complained or protested against to a higher court that is empowered to extend the statutory deadline and to consider the case on a private complaint or protest. At this, requirements of paragraphs 2, 3, and 4 of Article 479 of this Code shall be observed.

### **Article 497<sup>6</sup>. Consequences of Filing Appellate Complaint or Protest against Sentence**

Filing an appellate complaint or protest shall suspend the execution of the sentence.

Upon expiration of the time limit set for bringing complaint and protest against the sentence, having observed the requirements of paragraphs 2, 3, and 4 of Article 479 of this Code, the court that entered the sentence shall refer the case with complaints, protests, and objections thereto, as well as supplementary materials, to the court of appeal not later than within ten days.

The indicated time limit may be extended in exceptional cases by the presiding judge of a higher court or his deputy, but no more than by twenty days.

### **Article 497<sup>7</sup>. Contents of the Appellate Complaint and Protest**

An appellate complaint and protest shall refer to:

1. the name of the court, to which the complaint or protest is addressed;
2. data on the person, who has filed the complaint, his status, the place of his residence or location;
3. the name of the court that has entered the sentence, date of entering the sentence, data of the person with sentence thereof is being complained and protested against;
4. arguments of the person who filed a complaint or protest, his opinion on what exactly is wrong in the sentence or another decision, and the essence of his request;
5. evidence which underlie the complaint or protest filed, and which shall be examined by the court of appeal, including those which have not been examined in the court of first instance;
6. a list of materials attached to the complaint or protest;
7. date of filing the complaint or protest, and the signature of the person who is filing the complaint or protest.

### **Article 497<sup>8</sup>. Revocation of Appellate Complaint or Protest**

The person who has brought a complaint or protest against the sentence shall be entitled to revoke his complaint or protest. A higher prosecutor shall also be empowered to revoke the protest. A convicted shall be entitled to revoke the complaint brought by his defense

counsel.

### **Article 497<sup>9</sup>. Bringing Complaint and Protest against Finding of Court of First Instance**

A finding of a court of first instance on a case may be subject to bringing a private complaint or private protest by the persons envisaged in Article 497<sup>2</sup> of this Code within ten days from the day of rendering thereof.

In the instance of bringing complaint or protest against the finding rendered in the course of trial, which has completed with a sentence, the case file shall be sent to a court of appeal only upon expiration of the time limit set for complaining or protesting against the sentence.

Findings rendered in the course of trial in respect of the procedure of examination of evidence, motions of participants in the proceedings, imposing, alteration, and revocation of measures of restraint, as well as keeping order in the courtroom, shall not be subject to bringing complaint and protesting against as envisaged by part one of this Article. Objections thereto may be included in the appellate complaint or appellate protest.

Persons, who are not parties in the case, shall also be entitled to bring complaint against a court finding if it affects their interests.

### **Article 497<sup>10</sup>. Setting Date for Session of Court of Appeal**

A chief judge of a court of first instance shall set the date and venue of the hearing on the case, on which an appellate complaint or protest has been brought, in a higher court, with notification to that effect of the persons envisaged in Article 497<sup>2</sup> of this Code.

It shall be at discretion of the court to invite witnesses, forensic examiners and expert witnesses to the court session.

### **Article 497<sup>11</sup>. Procedure for Appellate Proceedings**

Proceedings in a court of appeal shall be conducted in accordance with the rules of procedure in the court of first instance, and with the provisions of this Chapter.

Non-appearance of persons, who were timely notified of the venue and date of the hearing, shall not preclude the consideration of the case and rendering a decision thereon.

The presiding judge shall announce what case is to be heard, and verify appearance of the parties, and announce the last and first names of judges comprising the court, prosecutor, secretary, interpreter/translator if he participates in the court session, and the defense counsel, and verify if there exist any challenges. The presiding judge shall expound the participants their rights at consideration of the case in the court of appeal. Thereupon the presiding judge shall ask the parties whether they have motions to file and a court of appeal shall render a finding thereon.

Consideration of a case shall begin with a presentation by one of the judges, who shall set forth the merits of the case, arguments of the complaint or protest, and the essence of objections thereto. If supplementary materials are presented to or requested by the court, the presiding judge or a judge shall read them out and give it to the participants in the hearing for familiarizing therewith.

The presiding judge shall invite to speak the person who has filed an appellate complaint, the person against whom the appellate complaint and protest have been brought, and their defense counsels and representatives, and then the prosecutor. If among the appellate complaints filed there is an appellate protest filed by the prosecutor, he shall be the first to be invited to speak.

Having heard speeches of the parties, the court shall make a decision on the extent of the evidence to be examined in court session on the basis of necessity to ensure proper verification of legality, validity, and fairness of the sentence; on summoning of the defendant, victims, witnesses, forensic examiners, and other persons to the court session, if required; on continuing, imposing, revocation, or alteration of a measure of restraint in respect to the defendant.

Thereupon the court shall proceed to check of evidences by questioning of the summoned defendant, witnesses, victims, and to reading out documents, official records, and other case file materials both upon motions of the parties, and at its own initiative. The procedure for examination of evidence shall be set by the court with due regard to the opinions of the parties.

Witnesses who have been questioned in the court of first instance shall be questioned in the court of appeal, if the court has found it necessary to summon them upon motions of the parties or at its own initiative.

The parties shall be entitled to file a motion to summon new witnesses, to conduct forensic examination, to request physical evidence and documents that the court of first instance has denied to examine. Disposal of the motions filed shall be conducted in compliance with the rules of Article 438 of this Code; at this the court of appeal shall have no power to deny a motion only because the court of first instance had not granted it.

Upon the completion of the examination of evidence, the judge shall ask the parties whether they have motions to supplement judicial investigation; the court dispose of these motions, and proceed with judicial pleadings.

### **Article 497<sup>12</sup>. Judicial Pleadings. Last Plea of Defendant**

Judicial pleadings shall be conducted in compliance with the rules of Article 449 of this Code; at this the person who filed the complaint or protest shall be the first to plead.

Upon the completion of the judicial pleadings, the presiding judge shall invite the defendant to make the last plea, if he is present, thereupon the court shall retire to the deliberation room to render a decision.

### **Article 497<sup>13</sup>. Powers of Court of Appeal**

Having considered the case by way of appellate procedure, the court shall, by its finding, be empowered to:

1. leave the sentence rendered by the court of first instance unaltered, and deny the appellate complaint or protest;
2. reverse the sentence of conviction rendered by the court of first instance and render the sentence of acquittal;
3. reverse the sentence of conviction rendered by the court of first instance and dismiss the case;
4. alter the sentence of the court of first instance;
5. reverse the sentence rendered by the court of first instance and refer the case to supplementary investigation pursuant to the grounds envisaged in Article 419 of this Code;
6. reverse the sentence or finding of the court of first instance and move the case to new court consideration.

If the court of first instance conducted biased judicial investigation, or made insignificant procedural violations, the court of appeal shall take measures to fill the gaps and rectify the violations without referring the case to new trial, and, with due regard to the results of case consideration, shall alter the sentence.

The decision of the court of appeal shall refer to the grounds upon which the sentence entered by the court of first instance shall be deemed correct, while the arguments of the complaint or protest shall be deemed invalid, which was the ground for reversing the sentence of the court of first instance, or for altering thereof.

In rendering a decision, the court of appeal may refer to the evidence examined by the court of first instance and recognized as reliable together with new evidences examined in the course of consideration of appellate complaints and protests.

A decision rendered shall be pronounced in compliance with the rules of Article 473 of this Code.

#### **Article 497<sup>14</sup>. Official Record of Court Session of Appellate Instance**

In the court of appeal, the secretary of the court session shall execute the official record in compliance with the rules of Article 426 of this Code. Comments on the official record may be submitted and shall be considered as envisaged by Article 427 of this Code.

#### **Article 497<sup>15</sup>. Procedure for Disposal of Private Complaints and Protests**

A private complaint or protest shall be considered along with appellate complaints or protests.

When disposing of a private complaint or protest, the presiding judge shall ask the opinion of all participants in the court session, and, if required, read out the materials of the criminal case file pertaining to the filed private complaint or protest. The court shall render a finding immediately or in the deliberation room on each private complaint or protest.

If only a private complaint or protest have been filed on the case, the court that has entered the sentence shall refer the case to a higher court upon expiration of the time limit set for bringing appellate complaint or protest.

The court shall dispose of a private complaint or protest with inviting the person who has filed it and other persons to be summoned upon the motion filed by this person or pursuant to the necessity recognized by the court.

A finding of the court rendered on a private complaint or protest shall be final.

#### **Article 497<sup>16</sup>. Entry of Decisions of Court of Appeal into Legal Effect**

Decisions of court of appeal shall take legal effect immediately after pronouncement thereof.

#### **Article 497<sup>17</sup>. Supplementary Consideration of the Case in Court of Appeal**

The court of appeal must consider an appellate complaint or protest and render a finding thereon if an appellate complaint or protest in respect to some of the convicted persons, which has been brought within the set time limit, is for some reasons received by a court of appeal after the criminal case in respect to the other convicted persons has been considered; or the missed statutory deadline is extended by the court pursuant to the procedure envisaged by Article 497<sup>5</sup> of this Code; or an appellate complaint of the convicted, his defense counsel, or his legal representative is received when the case in respect to this convicted has already been considered upon an appellate complaint or protest filed by another participant in the proceedings.

If this finding runs contrary to a previously rendered one, the case shall be referred to the chief judge who shall be empowered to bring a protest by way of supervision procedure in order to decide the issue on protesting against one or both of the findings.

The procedure for supplementary consideration of the case shall be equally applied to disposal of a private complaint and private protest, which have been received with a delay.

#### **Article 497<sup>18</sup>. Finding of Court of Appeal**

Upon the results of consideration of the case, the court of appeal shall render a finding.

A finding shall be rendered by the majority vote of judges and signed by all the judges. A judge who was a minority vote shall be entitled to set forth his dissenting opinion in writing, having signed the finding.

A finding of the court of appeal may be complained and protested against by way of supervision procedure.

### **CHAPTER 56. CASSATION PROCEDURE**

#### **Article 498. Persons Entitled to Bring Complaint and Protest against Sentence and Finding by Way of Cassation Procedure**

The convicted, his defense counsel and legal representative, as well as the victim and his representative, shall be entitled to bring complaint against a court sentence and finding, which have taken legal effect, by way of cassation procedure, if the case was not considered by way of appellate procedure. Persons indicated in Article 511 of this Code shall be entitled to bring a protest against a court sentence and finding, which have taken legal effect, by way of cassation procedure if the case was not considered by way of appellate

procedure.

*(Title and paragraph 1 are as amended by the Law of 14.12.2000).*

Civil plaintiff, civil respondent, and their representatives shall be entitled to complain against the sentence in its part pertaining to the civil suit.

The acquitted, his defense counsel and legal representative shall be entitled to complain against the sentence in its part pertaining to reasons and grounds for acquittal.

#### **Article 499. Procedure for Complaining and Protesting against Sentence**

Sentences of the following courts, which have taken legal effect, may be complained and protested against by way of cassation procedure:

1. district (city) courts on criminal cases – to the Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases;
2. the Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases – to court collegiums of the same courts;
3. the Supreme Court of the Republic of Uzbekistan – to court collegium of the same court;
4. military district and territorial military courts – to the Military Court of the Republic of Uzbekistan, and the sentence of the Military Court of the Republic of Uzbekistan – to court collegium of the same court. *(As amended by the Law of 14.12.2000).*

Cassation complaints and protests shall be brought via the court that has entered the sentence. If the complaint or protest is brought directly to the court of cassation, it shall refer them to the court that has entered the sentence, in order to fulfill the requirements envisaged in paragraphs 2, 3, and 4 of Article 479 of this Code.

#### **Article 500. Time Limits for Review of Court Sentences, Findings, or Rulings in Court of Cassation**

Review by way of cassation procedure for a sentence of conviction, finding, or ruling, as well as review of the sentence of acquittal, finding or ruling to dismiss the case shall be allowed only within a year after they have taken legal effect, if the complaint or protest request application of a statute of a more serious offense, imposing a more severe penalty, or other changes entailing worsening of the position of the convicted.

**Article 501.** *(Excluded by the Law of 14.12.2000).*

#### **Article 502. Consequences of Bringing Complaint or Protest against Sentence**

Having observed the requirements of paragraph 2, 3, and 4 of Article 479 of this Code, the court that has entered the sentence shall within a month refer the case file with complaints, protests and objections filed thereto, as well as supplementary materials presented, to the court of cassation. This time limit may, in exceptional cases, be extended by the chief judge of a higher court or his deputy, but no longer than by twenty days. *(As amended by the Law of 14.12.2000).*

#### **Article 503. Revocation of Complaint or Protest**

The person who has brought a complaint or protest against the sentence shall be entitled to revoke his complaint or protest. A higher prosecutor shall also be empowered to revoke a protest. The convicted shall be entitled to revoke the complaint that has been brought by his defense counsel.

**Article 504.** *(Excluded by the Law of 14.12.2000).*

#### **Article 505. Ordering Case to Trial and Summoning Persons to Court Session**

Chief judge of a court of first instance shall determine the date and venue of consideration of the case, on which a cassation complaint or protest have been brought, in the court of cassation, with notification to that effect of the persons indicated in Article 498 of this Code. *(As amended by the Law of 14.12.2000).*

Witnesses, forensic examiners, and expert witnesses shall be summoned to the court session at the discretion of the court.

#### **Article 506. Procedure for Consideration of Criminal Case by Court of Cassation**

The presiding judge shall open the court session, announce what criminal case shall be considered, and ascertain who is present at the court session, after which the court shall decide the issue on possibility to consider the case. Thereupon the presiding judge shall announce the composition of the court, last names of participants in proceedings, who appeared to the court session, and ask the persons present whether they have challenges to file. If there are such challenges, the court shall dispose of them.

The presiding judge shall expound to the participants in the proceedings their rights during consideration of the case by way of cassation procedure, ascertain whether the requirements of Article 479 of this Code were observed, and, if required, take measures for execution thereof.

The presiding judge shall ask the persons present at the court session whether they have motions to file. The court shall render a finding on filed motions. If it is required for granting the motions, the court session may be postponed.

Consideration of the case shall begin with a speech by one of the judges, who shall set forth the essence of the case, arguments of the complaint or protest, and essence of objections on them. If supplementary materials were presented to or requested by the court, the presiding judge or one of the judges shall read them out and give them to the persons participating in the case for familiarization therewith.

The convicted or acquitted, their defense counsels, legal representatives, victim, civil plaintiff, civil respondent, and their representatives, who are present at the court session, shall give explanations. The first to speak shall be the person who brought the complaint. If the case

is being heard on a protest, the prosecutor shall reason the protest. If both complaint and protest have been brought, the sequence of presentations shall be determined by the court.

After hearing the said persons the summoned witnesses, forensic examiners, and expert witnesses shall be questioned. The first to question them shall be that participant in the proceedings, at whose initiative they have been summoned. In the instance of difference of opinions, it shall be the court to make the decision.

After questioning of witnesses, forensic examiners, and expert witnesses the court shall open judicial pleadings, which shall be conducted in compliance with Article 449 of this Code. Upon the completion of judicial pleadings and hearing the last plea of the convicted, the court shall retire to the deliberation room to enter the sentence.

An official record of court session shall be made on the course and contents of the court session. It must be prepared within the time limits specified in Article 426 of this Code. All participants in the court session shall have a right to get familiarized with the official record and, if required, to make their comments thereon pursuant to the procedure envisaged in Article 427 of this Code.

**Article 507.** *(Excluded by the Law of 14.12.2000).*

#### **Article 508. Additional Consideration of Criminal Case in Court of Cassation**

If, for some reasons, a cassation complaint or protest in respect to some of the convicted persons is received in the court of cassation after consideration of the criminal case in respect to other convicted persons, as well as in the instance if a cassation complaint of the convicted, his defense counsel or legal representative is received after the case in respect to this convicted has been considered by a cassation complaint or protest of another participant in the proceedings, the court of cassation must consider such a complaint or protest, and render a finding thereon. *(As amended by the Law of 14.12.2000).*

If this finding runs contrary to the previously rendered one, the case shall be forwarded to the chief judge, who is empowered to bring a protest by way of supervision procedure for deciding the issue of protesting against one or both of them.

The procedure for additional consideration of a case shall be also applicable to disposing of a belated private complaint or private protest.

#### **Article 509. Finding of Court of Cassation**

Upon the results of consideration of the case, the court of cassation shall render a finding.

A finding shall be made by the majority vote of the judges. A finding shall be signed by all judges. The judge who was a minority vote shall, having signed the finding, be entitled to express his dissenting opinion in writing.

### **CHAPTER 57. SUPERVISION PROCEDURE**

#### **Article 510. Persons Entitled to Bring Complaint against Sentence and Finding or Ruling by Way of Supervision Procedure**

A sentence and finding or ruling on cases, which have been considered by way of appellate or cassation procedure, may be complained against by the persons, specified in Article 498 of this Code by way of supervision procedure. *(As amended by the Law of 14.12.2000).*

#### **Article 511. Persons Entitled to Bring Protest against Sentence and Finding or Ruling in Court of Supervision**

Cases with sentences and findings, or rulings may be considered by way of supervision procedure only after they have been considered by way of appellate or cassation procedure along with a protest of a chief judge of a court, prosecutor, or their deputies, who are empowered by law to do so.

The following persons shall be entitled to bring protests:

1. Chief Judge of the Supreme Court of the Republic of Uzbekistan – against sentences and findings, or rulings of courts of all instances; deputies of Chief Judge of the Supreme Court of the Republic of Uzbekistan, General Prosecutor of the Republic of Uzbekistan and his deputies – against sentences and findings, or rulings of any courts, except for findings of the Plenum of the Supreme Court of the Republic of Uzbekistan;
2. Chief Judge of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, chief judges of regional and Tashkent City courts on criminal cases, the Prosecutor of the Republic of Karakalpakstan, regional and Tashkent City prosecutors and prosecutors of the same level – against sentences and rulings of district (city) courts on criminal cases; against findings of court collegiums of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, of regional and Tashkent City courts on criminal cases, which considered cases in the appellate instance, except for appellate and cassation findings on cases tried in the first instance in the Superior Court of the Republic of Karakalpakstan on Criminal Cases, and in regional and Tashkent City courts on criminal cases;
3. Chief Judge of the Military Court of the Republic of Uzbekistan and the Military Prosecutor of the Republic of Uzbekistan – against sentences and rulings of military district and territorial military courts, findings of the Military Court of the Republic of Uzbekistan, which reviewed the case in the appellate or cassation instance, except for appellate and cassation rulings on cases considered in the first instance by the Military Court of the Republic of Uzbekistan.

*(As amended by the Law of 14.12.2000).*

#### **Article 512. Evoking Criminal Case for Review by Way of Supervision Procedure**

Persons indicated in Article 511 of this Code shall be entitled, within their jurisdiction, to evoke any criminal case from the court for review and decision of the issue of bringing a supervision protest.

Deputy Chief Judge of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, deputies of chief judges of regional, Tashkent City courts on criminal cases, deputies of the prosecutor of the Republic of Karakalpakstan, regional and Tashkent City prosecutors, as well as district and city prosecutors, and their deputies, shall be entitled to evoke cases from district or city courts on criminal cases. Deputy of the Chief Judge of the Military Court of the Republic of Uzbekistan, deputy of the Military Prosecutor of the Republic of Uzbekistan, as well as military district prosecutors, and their deputies, shall be entitled to evoke cases from military district and territorial military courts. *(As amended by the Law of 14.12.2000).*

Reasons for evoking cases shall be, as follows: motions brought by individuals, enterprises, institutions, organizations, officials, and advocates who have an assignment to proceed the case by way of supervision procedure, representations of judges and prosecutors, information in the media, as well as immediate discretion of persons entitled to evoke the case.

#### **Article 513. Time Limits for Review of Sentences, Findings, and Rulings of Courts by Way of Supervision Procedure**

Review by way of supervision procedure of a sentence of conviction, finding, or ruling, if the protest requests to apply a criminal statute of a more serious offense, to aggravate penalty, or other changes that entail worsening of the position of the convicted, as well as review of a sentence of acquittal or a court finding or ruling to dismiss a criminal case shall be permitted only within one year after they have taken legal effect.

#### **Article 514. Time Limits of Consideration of Motions to Bring Supervision Protest**

Motions to bring a supervision protest shall be considered within one month, and, in the instance of evoking and check of the case – within two months.

#### **Article 515. Decision to Be Taken on Motion to Bring Supervision Protest**

On a filed motion, one of the following decisions shall be made:

1. to evoke the case, if the arguments in the motion cause doubts in legality and validity of the sentence, finding, or ruling;
2. to deny evoking of the case, if, from the motion itself, copies of judicial decision and other materials, attached thereto or evoked during the check, it is clear that the arguments in the motion are invalid and may not constitute the ground for bringing a protest;
3. to refer the motion to a lower prosecutor or to the chief judge of a lower court, who are empowered to bring a protest, unless they have decided to deny protesting against the sentence, finding, or ruling on this case.

The person, enterprise, institution, or organization having filed the motion shall be informed of the decision made.

#### **Article 516. Check of Evoked Criminal Case and Making Decision**

A criminal case evoked by way of supervision proceedings shall be checked by the person, who is entitled to bring a protest, or, under his instruction, by a prosecutor or a judge, who have not previously participated in the proceedings on the case.

Having found that the sentence, finding, or ruling are illegal and invalid, the Chief Judge of the Supreme Court of the Republic of Uzbekistan, General Prosecutor of the Republic of Uzbekistan, their deputies, Chief Judge of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, chief judges of regional and Tashkent City courts on criminal cases, Prosecutor of the Republic of Karakalpakstan, regional and Tashkent City prosecutors and prosecutors of the same level shall bring a protest and refer the case file along with the protest to the appropriate court of supervision. The protest shall be attached with the motion or other materials that were the ground for bringing the protest. The person, enterprise, institution, or organization, on whose motion the protest has been brought, as well as the convicted, acquitted, their defense counsels and legal representatives, shall be informed of the brought protest. *(As amended by the Law of 14.12.2000).*

In the instances when there are no grounds to bring protest against court decisions, the prosecutor or the judge, who checked the case, shall give a reasoned opinion that shall be approved by the person entitled to bring a protest and attached to the case file. The person, enterprise, institution, or organization, pursuant to whose motion the case was evoked, shall be informed to that effect, and the case shall be returned to the court.

Denial to evoke the case or to bring a protest may be complained against to the chief judge of a higher court, or to a higher prosecutor.

#### **Article 517. Suspension of Execution of Sentence and Finding or Ruling**

The Chief Judge of the Supreme Court of the Republic of Uzbekistan and his deputies shall have a right to suspend the execution of a sentence, finding, or ruling of any court of the Republic of Uzbekistan until the protest brought is disposed of by way of supervision procedure. When there is information indicating an obvious violation of law, the said persons, along with evoking criminal case, shall be entitled to suspend execution of the sentence, finding, or ruling, until their being protested against, for no longer than for three months. *(As amended by the Law of 14.12.2000).*

#### **Article 518. Revocation of Protest**

The person who has brought a protest shall be entitled to revoke it. A higher prosecutor shall be entitled to revoke the protest brought by a lower prosecutor. Revocation of protest shall be permitted only before the commencement of consideration of the case by a court of supervision. A protest and the document on revocation thereof shall remain in the case file.

#### **Article 519. Courts Considering Criminal Cases on Protests by Way of Supervision Procedure**

Presidiums of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, of regional and Tashkent City courts on criminal cases shall consider cases by protests of, respectively, appellate and cassation findings of these courts rendered on the cases that have been considered by district or city courts on criminal case.

Judicial collegium on criminal cases of the Supreme Court of the Republic of Uzbekistan shall consider cases on protests against the presidiums of the Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, as well as against appellate and cassation findings rendered on the cases that have been considered by the said courts in the first instance.

Presidium of the Military Court of the Republic of Uzbekistan shall consider cases on protests against appellate and cassation findings of this court rendered on the cases that have been considered by military district and territorial military courts. Military collegium of the Supreme Court of the Republic of Uzbekistan shall consider cases on protests against rulings of the Presidium of the Military Court of the Republic of Uzbekistan, as well as against appellate and cassation findings of the Military Court of the Republic of Uzbekistan rendered on

the cases that have been considered by this court in the first instance.

Presidium of the Supreme Court of the Republic of Uzbekistan shall consider cases on protests against appellate and cassation findings of judicial collegiums of the Supreme Court of the Republic of Uzbekistan, as well as against findings of judicial collegiums of the Supreme Court of the Republic of Uzbekistan rendered by way of supervision procedure.

Plenum of the Supreme Court of the Republic of Uzbekistan shall consider cases by way of supervision procedure on protests against rulings of the Presidium of the Supreme Court of the Republic of Uzbekistan.

When necessary, cases on protests may be considered by way of supervision procedure by judicial collegiums of the Supreme Court of the Republic of Uzbekistan without referring to the Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, and the Military Court of the Republic of Uzbekistan.

*(As amended by the Law of 14.12.2000).*

#### **Article 520. Procedure for Consideration of Criminal Case in Court of Supervision**

A criminal case shall be considered in a court of supervision in compliance with the rules envisaged in Article 506 of this Code. If, during consideration of a case in the Presidium of the Supreme Court of the Republic of Uzbekistan, Superior Court of the Republic of Karakalpakstan on Criminal Cases, regional and Tashkent City courts on criminal cases, equal number of votes is cast for and against satisfaction of the protest, the protest in favor of the convicted or acquitted shall be satisfied, and the protest that requests worsening of the position of the convicted or acquitted shall be denied. *(As amended by the Law of 14.12.2000).*

#### **Article 521. Reversal and Alteration of Findings and Rulings of Higher Courts in Way of Supervision Procedure**

Having found the sentence of a court of first instance illegal and invalid, a court of supervision shall also reverse or alter appellate or cassation finding, as well as findings and rulings rendered by way of supervision procedure if they left the sentence without alteration. At this, one of the decisions envisaged by paragraph 1 of Article 490 of this Code may be taken.

Findings of a court of appeal or cassation, as well as findings and rulings of a court of supervision, shall be subject to reversal or alteration if the court which considers the protest ascertains that these decisions have wrongfully reversed or altered previous sentences or findings, or that during consideration of the case by way of appellate, cassation, or supervision procedures there have been violations of law, which affected or might have affected the truth of the rendered finding or ruling.

When reversing a finding or ruling, rendered by way of supervision procedure, the court shall have a right to leave in force, with or without alterations, a sentence of a court of first instance and a finding of a court of appeal or cassation.

*(As amended by the Law of 14.12.2000).*

#### **Article 522. Grounds for Reopening Proceedings in View of Newly Discovered Circumstances**

Grounds for reopening of proceedings in view of newly discovered circumstances shall be as follows:

1. established by a court sentence which has taken legal effect knowingly false testimony of the victim or witness, or opinion of the forensic examiner, as well as forgery of physical evidence, official records of investigative and court actions, and of other documents, or knowingly wrong translation, which entailed entering an illegal and invalid sentence or finding or ruling;
2. established by a court sentence which has taken legal effect criminal abuses of inquiry officer or investigator in charge of investigating the case, or of prosecutor in charge of oversight of the investigation, which led to issuance of an illegal and ungrounded sentence or finding or ruling;
3. established by a court sentence which has taken legal effect criminal abuses of judges, which took place during consideration of the case;
4. other circumstances unknown to the court when issuing the sentence, finding, or ruling, which, *per se* or together with other previously established circumstances, evidence of the innocence of the convicted or commission of a crime of other seriousness than that he was convicted for, or the guilt of the acquitted or of the person, in whose regard the case was dismissed.

#### **Article 523. Time Limits for Reopening of Proceedings in View of Newly Discovered Circumstances**

There shall be no time limit for the review of a sentence of conviction in view of newly discovered circumstances in favor of the convicted.

Death of the convicted shall not preclude reopening of proceedings in view of newly discovered circumstances for his rehabilitation.

Review of a sentence of acquittal and a court finding or ruling to dismiss the case, as well as review of a sentence of conviction and court finding or ruling on the grounds of leniency of penalty or necessity to apply a statute of a more serious offense, shall be permitted only within the period of limitation of bringing to liability set in Article 64 of the Criminal Code, and within one year from the day of discovery of new circumstances.

The day of the discovery of new circumstances shall be deemed:

1. in the instances referred to in subparagraphs 1-3 of Article 522 of this Code – the day on which the sentence with regard to the person guilty of proffering false evidence, providing knowingly wrong translation, or committing illicit abuses in the course of investigation or court consideration of the case takes legal effect;
2. in the instances referred to in subparagraph 4 of Article 522 of this Code – the day when the prosecutor renders a resolution to reopen proceedings in view of newly discovered circumstances.

#### **Article 524. Initiation of Proceedings in View of Newly Discovered Circumstances**

The power to initiate proceedings in view of newly discovered circumstances shall rest with the prosecutor.

Communications from individuals, officials of enterprises, institutions, and organizations, public organizations, information in the media, as well as information obtained in the course of investigation or consideration of other cases shall be the grounds to initiate proceedings in view of newly discovered circumstances.

If there is sufficient information that refers to the existence of one of the circumstances referred to in subparagraphs 1-3 of Article 522 of this Code, the prosecutor shall initiate criminal case, which shall thereafter be considered under general procedure.

If there is information on circumstances referred to in subparagraph 4 of Article 522 of this Code, the prosecutor shall, within the scope of his jurisdiction, render a resolution to initiate proceedings in view of newly discovered circumstances and shall conduct an investigation of such circumstances or shall instruct an investigator to do so.

Having not found grounds to reopen proceedings in view of newly discovered circumstances, the prosecutor shall by his resolution deny doing so. The person who has requested to initiate the case shall be informed of the denial and expounded his right to bring complaint against the resolution to the higher prosecutor.

#### **Article 525. Investigation of Newly Discovered Circumstances**

Extent of investigation of newly discovered circumstances shall be limited to ascertaining those of them, which, under law, constitute the ground to initiate a criminal case. At this, questionings, views, forensic examinations and other necessary actions may be conducted in compliance with the rules envisaged in this Code.

#### **Article 526. Actions of Prosecutor Upon Completion of Investigation of Newly Discovered Circumstances**

If there exist grounds to reopen proceedings in the criminal case, the prosecutor shall refer the case to the court. In the instances envisaged in subparagraphs 1-3 of Article 522 of this Code, the case shall be referred to the court with the protest of the prosecutor and a copy of the sentence that has taken legal effect, and in the instance envisaged in subparagraph 4 of that Article – with all materials of the investigation.

In the instance of the lack of grounds to reopen proceedings in the criminal case, the prosecutor by his resolution shall discontinue investigation of the case. Interested persons shall be communicated to that effect, and be expounded their right to bring complaint against the ruling to a higher prosecutor.

#### **Article 527. Procedure for Deciding by Court Issue of Reopening Proceedings Due to Newly Discovered Circumstances**

A protest of the prosecutor to reopen proceedings in view of newly discovered circumstances shall be considered:

1. in cases, on which sentences have been entered or findings rendered by district or city courts and military courts of garrisons – by the presidium of a higher court;
2. in cases, on which sentences, findings, or rulings have been rendered by the Superior Court of the Republic of Karakalpakstan, regional and Tashkent City courts, and military court of Armed Forces – by the respective collegiums of the Supreme Court of the Republic of Uzbekistan;
3. in cases, on which sentences and findings have been rendered by the Supreme Court of the Republic of Uzbekistan – by the Presidium of the Supreme Court of the Republic of Uzbekistan;
4. in cases, on which rulings have been rendered by the Presidium or Plenum of the Supreme Court of the Republic of Uzbekistan – by the Plenum of the Supreme Court of the Republic of Uzbekistan.

### **SECTION TWELVE. EXECUTION OF SENTENCES, FINDINGS, AND RULINGS**

#### **CHAPTER 58. ORDERING SENTENCES, FINDINGS AND RULINGS FOR EXECUTION**

#### **Article 528. Entry of Sentence into Legal Effect and Execution Thereof**

A sentence shall enter into legal effect upon expiration of the time limit for bringing appellate complaints and protests. In the instance of bringing an appellate complaint or protest, the sentence, unless it was reversed, shall take legal effect on the day of consideration of the case by a higher court. *(As amended by the Law of 14.12.2000).*

When there are two or more convicted, if the sentence was complained or protested against in respect to at least one of them, the sentence in respect to all of the convicted shall not take legal effect until the case is considered by a higher court.

A sentence shall be ordered for execution by the court, which entered it within three days from the day of its entry into legal effect or of the remand of the criminal case from the court of appeal. The case shall be sent only to the court of first instance and may not be sent to the prosecutor or another court. *(As amended by the Law of 14.12.2000).*

#### **Article 529. Releasing from Custody in the Courtroom**

The court, having pronounced the sentence, shall immediately, in the courtroom release from custody:

1. the acquitted;
2. the convicted without imposing a penalty;
3. the convicted released from serving the penalty;
4. the convicted, who was sentenced to imprisonment for a term which does not exceed the time that the person spent in custody due to detention or imposing a measure of restraint, or served a penalty on the same case on the basis of a sentence which was reversed by way of supervision procedure;
5. the convicted, who was conditionally sentenced to imprisonment;
6. the convicted, sentenced to a penalty not connected with imprisonment.

#### **Article 530. Entry of Finding or Ruling into Legal Effect and Execution Thereof**

A finding of a court of first instance shall enter into legal effect and be ordered for execution upon expiration of the time limit set for bringing a private complaint or private protest by way of cassation procedure or, if a complaint or protest have been brought – upon consideration of the case by a higher court.

A court finding that is not subject to complaining or protesting shall take legal effect and be ordered for execution immediately upon being rendered.

A court finding to dismiss criminal case shall be subject to immediate execution in the part pertaining to the release of the accused or defendant from custody.

A finding of a court of cassation shall enter into legal effect as soon as it is pronounced.

A finding or ruling of a higher court shall be ordered for execution pursuant to the procedure set by Article 497 of this Code.

### **Article 531. Procedure for Ordering Sentence, Finding or Ruling for Execution**

The ordering a court sentence, finding, or ruling for execution shall be vested with the court that rendered them.

An order of the court to execute the sentence and a copy of the sentence shall be served on by the judge or chief judge of the court to the institution or agency that is in charge of execution of sentence. If a sentence is altered in the course of the consideration of a case by way of appellate, cassation, or supervision procedure, a copy of the finding by the court of appeal, cassation, or supervision shall be attached to the copy of the sentence. *(As amended by the Law of 14.12.2000).*

Agencies in charge of the execution of sentence shall immediately notify the court that has entered the sentence of the execution thereof. The administration of the institution in charge of the execution of penalty shall notify the court that has entered the sentence, of the place of serving the penalty by the convicted.

Untimely or incomplete execution of a court decision shall cause liability in compliance with the legislation.

When necessary, a copy of a sentence that has taken legal effect shall be sent to the place of employment, study, or residence of the convicted.

If required, the sentence that has taken legal effect shall be made public via the press and other mass media.

If the court decided to deprive the convicted of a military rank or of a special rank, the court shall refer a copy of the sentence for execution to the agency that conferred this rank. When entering a sentence of conviction in respect to a person who has state awards or a highest military or special rank, the court shall decide the issue of expediency to bring a representation to the appropriate agency on deprivation of the convicted of these awards or ranks.

For execution of a sentence in the part pertaining to imposing a fine, forfeiture of property and other pecuniary penalties, acts of execution or their duplicates shall be sent to officers of court at the place of residence of the convicted, or at the place of his serving the penalty, or at the location of his property.

The court must notify the family of the convicted of the entry into legal effect and ordering execution of the sentence, under which the convicted, being held in custody, is sentenced to imprisonment.

Visitations with the convicted being held in custody shall be granted before ordering the sentence to execution under Article 477 of this Code.

If the court made a decision to commit minor children of the convicted under supervision of institutions, relatives, or other persons, the court shall inform to that effect the guardianship agency in the location of children and the convicted.

The court shall inform of the necessity to take measures to protect the property and dwelling of the convicted, which are left without supervision, the *khokimiyat* or a body of local self-government in location where this property and dwelling is located, with notification to that effect of the convicted.

### **Article 532. Rights of Convicted at Stage of Execution of Sentence**

At the stage of the execution of a sentence, the convicted shall have a right to: address the court with requests to defer the execution of the sentence, to release from serving the sentence due to illness or disability, of conditional early release from serving the sentence and of replacement of the part of the penalty yet to be served with a more lenient penalty, of changing the conditions of detention in places of execution of penalty, and on other issues, envisaged in this Code; to participate in a court session and give testimony, present evidence, file motions and challenges; get familiarized with the whole case file; bring complaints against actions and decisions of the court.

## **CHAPTER 59. PROCEEDINGS FOR EXAMINING AND DECIDING ISSUES AT EXECUTION OF SENTENCES, FINDINGS AND RULINGS**

### **Article 533. Deferral of Execution of Sentence**

A judge may defer the execution of a sentence in respect of a person convicted to imprisonment, if there exists one of the following grounds:

- 1) severe illness of the convicted that prevents him from serving the sentence, until his recovery;
- 2) pregnancy of the convicted by the moment of execution of the sentence – for no more than one year;
- 3) the convicted woman has a little child with - until the child reaches the age of three;
- 4) when immediate serving of penalty can entail for serious consequences for the convicted person or for his family because of a fire or other natural disaster, severe illness or death of the only able member of the family, or other exceptional circumstances – for no longer than three months.

Deferral of the execution of a sentence up to six months or installment of execution thereof in the part concerning imposing a payment of fine, civil suit, or compensation for the pecuniary damage shall be decided by the judge upon consideration of circumstances of the case and financial status of the convicted.

Deferral of execution of the sentence cannot be applied to special dangerous recidivists and to the individuals who have committed especially serious crimes.

#### **Article 534. Procedure for Relief from Serving Penalty Because of Illness**

In the instance, when the convicted serving the penalty has acquired chronic mental or other severe illness impeding serving thereof, the judge, upon the presentation of the institution executing the penalty grounded on the report of an appropriate medical commission, shall be entitled to render a finding of relief of the convicted from further serving of the penalty.

In case of relief of the convict, who has acquired chronic mental disorder, from further serving of the penalty, the judge shall be entitled either to apply compulsory medical measures to him or to commit him to the care of health care agencies or relatives.

In case of recovery of the said persons, the court shall issue a finding of execution of the penalty, if the recovery has occurred before the expiration of statute of limitation therefor.

When considering the issue of relief from further serving of the penalty of the convicted who has acquired serious disease, except for chronic mental disorder, the judge shall take into consideration the seriousness of the crime committed, personality of the convicted, and other relevant circumstances.

Reliving the convict from further serving of the penalty because of illness, the judge shall have the right to release him both from the main and additional penalty, and this should be mentioned in the finding.

#### **Article 535. Procedure for Revoking Conditional Conviction**

If, during a period of probation, a conditionally convicted fails to fulfill the obligations rested upon him by the court or has disturbed public order or labor discipline that entailed imposing of an administrative or disciplinary penalty, the court, upon the presentation of the institution, under whose supervision he was committed, may render a finding to revoke the conditional conviction and to execute the penalty imposed by the sentence in accordance with paragraph 6 of Article 72 of the Criminal Code.

#### **Article 536. Procedure for Conditional Early Release from Serving Penalty and of Replacement of Sentence with More Lenient One**

A conditional early release from serving penalty and replacement of sentence yet to be served with a more lenient sentence in cases envisaged by Articles 73 and 74 of the Criminal Code, shall be applied by the judge upon the presentation made by the administration of the institutions in charge of execution of the sentence.

To those serving the penalty in a penal unit the same measures shall be applied by the judge upon the presentation of the commanders of this penal unit.

A motion on conditional early release from serving penalty and for replacement of the sentence yet to be served with a more lenient one in respect of the persons that have committed an offense being aged under eighteen, shall be applied by the judge upon a joint presentation made by the administration of the institutions in charge of executing of the sentence and the commission on juvenile affairs, or upon the motion submitted by the convicted himself, or by his defense counsel.

A relief from a penalty in the form of deprivation of a certain right shall be rendered by the judge upon the motion filed by a public organization, collective, a convicted, or his defense counsel.

*De novo* consideration of the motions filed on such issues may take place not earlier than on the expiration of a six month period from the day of rendering of the denial ruling.

#### **Article 537. Change of Conditions of Holding Persons, Sentenced to Imprisonment, During Serving Penalty**

A transfer of the convicted from a colony of serving the penalty to another one with different level of security, from a prison to colony, and from colony to prison, pursuant to the grounds envisaged by law, shall be conducted by the judge upon the presentation of the administration of the institutions in charge of executing of the sentence, as well as upon the motion submitted by the convicted, or his defense counsel.

In the instance of the judge's denial to transfer the convicted from a colony of serving the penalty to another one with a different level of security, from a prison to colony, and from colony to prison, *de novo* consideration of the presentation or motion shall be conducted only after a six month period since the day of rendering the denial ruling.

Transfer of the convicted from an educational colony to the colony of execution of penalty and from an educational colony of general security to the educational colony of close security, on the basis envisaged by law, shall be applied by the judge pursuant to a presentation made by the administration of the institutions in charge of executing of the sentence upon agreement of the commission on juvenile affairs.

Deciding the issue of transfer of the convicted who has reached the age of eighteen, from an educational colony to a colony of execution of penalty, the judge should take into account the obtained degree of his correction. The convicted may be left with the educational colony for further serving the penalty, but for no longer than until the age of twenty.

#### **Article 538. Placement of Convicted to Isolation Ward**

If required to conduct investigative actions upon the offense committed by another person, the convicted who sentenced to imprisonment in a colony of execution of penalty or educational colony, can be placed into an isolation ward, upon the approval of the prosecutor of the Republic of Karakalpakstan, prosecutors of regions and of Tashkent City, as well of those of the same level – for up to a three month term; and with the approval of the General Prosecutor 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 the duration of the trial determined by the court

### **Article 539. Procedure for Substitution of Fine and Correctional Labor by Other Penalties**

Substitution of fine and correctional labor by other penalties shall be implemented by a judge pursuant to Articles 44 and 46 of the Criminal Code upon the presentation of the agency of internal affairs or upon the motion from a public organization or collective.

### **Article 540. Procedure for Execution of Sentence when There Exist Other Sentences Not yet Executed**

In the instance if in respect of the same convicted there exist several sentences not yet executed and unknown to the court that has rendered the latest sentence, the district (city) court on criminal cases in the place of execution of sentence shall render a finding on the application of penalty to the convicted on all said sentences under Article 60 of the Criminal Code. *(As amended by the Law of 14.12.2000)*

### **Article 541. Courts that Decide Issues Pertaining to Execution of Sentence, Finding, and Ruling**

Issues of releasing a person from serving penalty in form of imprisonment for the disabled persons of the first and second category, of deferral of execution of sentence, of non-execution of the sentence, of substitution of fine and correctional labor by other penalties, of credit of correctional labor term for the labor record of the person, of alteration or discontinuation of the compulsory medical measures to the persons who acquired mental disorders, of application, continuation or discontinuation of compulsory treatment of alcohol or drug addicts, as well as any doubts and ambiguities revealed in the course of execution of the sentence shall be solved by the court that entered thereof. If the sentence is executed beyond the jurisdiction of the said court, these issues shall be resolved by the court of the equal level, and in the absence the court of the equal level in the district – by a higher court. In this instance, a copy of the finding shall be referred to the court that has entered the sentence.

Issues of relieving a person of penalty because of illness or physical disability, of conditional early release, of replacement of the part of the sentence yet to be served with a more lenient one, of revoking conditional conviction, of transfer from a colony of serving the penalty to another one with different level of security, of transfer from an education colony to another one with different level of security, transfer from one colony of execution of penalty or educational colony to another colony, from an educational colony to the colony of execution of penalty, from a colony of execution of penalty to a prison and from a prison to a colony of execution of penalty, from a colony of execution of penalty of high security to a colony of execution of penalty, from a colony of execution of penalty of close security shall be decided by the judge of district (city) court on criminal cases in the place where the convicted is serving the penalty. *(As amended by the Law of 14.12.2000)*

Issues of shortening of the probation period under conditional sentence or of revoking conditional conviction and transferring the convicted to serve the penalty he was sentenced to, of release of the convicted from serving the penalty, in the relation to which the execution has been deferred, and also revoking of deferral of execution of sentence and transferring the convicted to serve the penalty in the form of confinement, of expunging of record of conviction, shall be solved by the judge of the district (city) court on criminal cases on the place of residence of the convicted. *(As amended by the Law of 14.12.2000)*

### **Article 542. Procedure to Decide Issues Pertaining to Execution of Sentence, Finding, and Ruling**

Issues of execution of sentence shall be decided by the judge during court session with the participation of the prosecutor and the convicted that is secured with the rights envisaged by Article 532 of this Code. Participation of the defense counsel shall be mandatory at judicial consideration of issues of entering sentences regarding the convicted persons aged under eighteen, as well as those acquired physical or mental disabilities.

If the issue concerns the execution of sentence in the part of the civil suit, civil plaintiff, civil defendant or their representatives shall summoned to the court session. Non-appearance of the abovementioned persons shall not impede the consideration of the case.

Problems of release from serving the penalty because of illness, physical disabilities, of conditional early release, of replacement of the part of the sentence yet to be served with a more lenient sentence, of revoking conditional conviction, of transfer from one colony of execution of penalty or educational colony to another colony, from a colony of execution of penalty to a prison and from a prison to a colony of execution of penalty shall be decided by the judge of district (city) court in the place where the convicted is serving the penalty.

When the case undergoes consideration upon a joint presentation made by the administration of the institutions in charge of execution of the sentence and the commission on juvenile affairs, the judge shall notify the commission about the time and venue of consideration of the presentation.

With the purposes of educational effect on other convicted persons, consideration of presentations for conditional early release may be conducted by visitation of the colony of execution of penalty or the educational colony.

Consideration of the case shall start with the reading out of the presentation or motion followed by the judge's examination of the materials or hearing of the opinion of those who appeared to the court session. The convicted or his defense counsel shall be the last to speak. Then the judge retires for a separate room to render a finding.

### **Article 543. Consideration of Issue of Probation Period**

When the judge considers the issue of shortening of the probation period for conditionally convicted, the representatives of the organs supervising his behavior, as well as of the public organization or collective watching the convicted and carrying out educational work with him, shall be summoned to the court session.

### **Article 544. Consideration of Expunging of Record of Conviction**

The issue of expunging of a record of conviction shall be decided by the judge under the motion of the person that has served his penalty, his defense counsel or legal representative, or under the motion of the public organization or collective.

Participation in the court session of the person in whose relation the issue of expunging of record of conviction is to be considered shall be mandatory. He shall be secured with the right to have the defense counsel. If the motion to expunge of record of conviction has been initiated by public organization or collective, participation of their representative at the session shall be mandatory.

Consideration of the case shall start with the reading out of the filed motion, after which the judge shall hear opinions of the persons appeared and leave for a separate room to render a finding.

In case of denial to expunge the record of conviction, repeated motion on the same issue may be referred to the judge not earlier than after the expiration of one year since the date of rendering the denial finding.

#### **Article 545. Consideration of Motions on Credit of Period of Correctional Work of Convicted for His Labor Record**

The issue of credit of the period of correctional work of the convicted for his labor record shall be considered by district (city) courts of residence of the person, who has served the penalty, upon the motion of a public organization or collective, or by his own application, if the person is incapable.

Judicial consideration of the issue of credit of the period of correctional work of the convict for his labor record must be conducted in the presence of the person in whose relation the motion has been filed, as well as of the representative of social organization or collective that has filed thereof.

Consideration of the issue of credit of the period of correctional work of the convict for his labor record shall start with reading of the received materials, after this the judge shall listen to the persons summoned, establish whether the data prove the conscientious work and exemplary behavior of the convicted in course of serving correctional works.

Finding of the judge on credit of the period of correctional work of the convict for his labor record may be complained or protested against at a higher court.

#### **Article 546. Consideration of Motions on Credit of Period of Suspension from Service or Holding in Penal Unit**

The problem of credit the time of suspension from service or holding in penal unit during a military service shall be considered by the judge of the military court of the garrison immediately after the expiration of these penalties on the basis of the presentation submitted by the commanders under the procedure envisaged in Article 545 of this Code.

### **SECTION THIRTEEN. PROCEEDINGS IN INDIVIDUAL CATEGORIES OF CRIMINAL CASES**

#### **CHAPTER 60. PROCEEDINGS IN CRIMINAL CASES OF JUVENILES**

##### **Article 547. Procedure for Proceedings in Cases of juveniles**

Procedure for proceedings on the criminal cases of persons aged under eighteen at the moment of committing the offense shall be envisaged by the general rules and Articles 548-564 of this Code.

##### **Article 548. Circumstances Subject to Proof in Cases of juveniles**

In conducting a preliminary investigation and a trial in a criminal case of the offense committed by a juvenile, in addition to proving circumstances referred to in Articles 82-84 of this Code, the following shall be proved:

- 1) the age of the juvenile: the day, month and year of birth;
- 2) peculiarities of personality and health condition of the juvenile;
- 3) the juvenile's living conditions and upbringing;
- 4) availability of adult instigators or other accomplices.

##### **Article 549. Participation of Legal Representative of Juvenile**

During the proceedings in cases with regard to juveniles, participation of legal representative shall be mandatory.

The legal representatives of a juvenile suspect or defendant shall be admitted to participate in the criminal case pursuant to a resolution by an inquiry officer or investigator from the moment of the first questioning of the juvenile as a suspect or accused. As the above persons are admitted to the criminal case, they shall be expounded the rights envisaged by Article 61 of this Code.

By resolution of an inquiry officer, investigator or by finding of court, a legal representative may be dismissed from participation in the criminal case, if there are grounds to believe that his actions are detrimental to the interests of the juvenile. In such instance, the defense of interests of the juvenile shall be entrusted to another legal representative or representative of guardian agency.

##### **Article 550. Securing Participation of Defense Counsel in Cases of juveniles**

An inquiry officer or investigator shall take measures to secure engagement of defense counsel in from the moment of the first questioning of the juvenile as a suspect or accused. Therefor, the juvenile and his legal representative shall be expounded the right to retain the defense counsel of their choice. If a defense counsel has not been retained by the juvenile, his legal representative, or other persons upon their charge or by their consent, the inquiry officer, investigator, or the court shall be obliged to secure engagement of defense counsel in the case.

##### **Article 551. Engagement of Representatives of Enterprises, Institutions, and Organizations for Participation in Cases of juveniles**

The court shall notify of time and venue of proceedings in cases of juveniles their parents, surrogate parents, enterprises, institutions, and organizations where the juveniles were enrolled or employed, juvenile commission, and other organizations if necessary. The court shall be entitled to summon representatives of the aforementioned organizations, guardian or curator of the defendant to the court hearing.

##### **Article 552. Accusation of Juvenile**

During the accusation, a legal representative of a juvenile shall be entitled to attend thereat together with a defense counsel.

#### **Article 553. Questioning of Juvenile Suspect and Accused**

A defense counsel shall participate in questioning of a juvenile suspect or accused.

A legal representative of the juvenile may attend the questioning with permission of the investigator.

The defense counsel and legal representative shall be entitled to put questions to the juvenile suspect or accused. Upon completion of the questioning, they may get familiarized with the official record and make comments on it.

An overall duration of the questioning of juvenile suspect or accused per day must not exceed six hours excluding one-hour break for rest and meals.

#### **Article 554. Participation of Teacher or Psychologist in Questioning of Juvenile Accused**

A teacher or psychologist may participate in the questioning of juvenile accused on discretion of the investigator or prosecutor. With permission of the investigator, he may put questions to the accused, and, upon completion of the questioning, get familiarized with the official record and make comments concerning the accuracy and completeness of the entries made therein. These rights shall be expounded by the investigator to a teacher or psychologist before the questioning of juvenile, with the entry to this effect being made in the official record of questioning.

#### **Article 555. Imposing Measure of Restraint on Juvenile Suspect**

In the instances when there exist grounds envisaged by Article 236 of this Code, one of the measures of restraint envisaged in Article 237 of this Code may be imposed on a juvenile accused. He may be committed him under supervision of parents, guardians, curators or heads of specialized juvenile institution, if juvenile is being raised in such an institution.

A legal representative, or if none, other relatives shall be notified of application of a measure of restraint to the juvenile accused.

#### **Article 556. Procedure for Committing Juvenile under Supervision**

Committing a juvenile under supervision of parents, guardians, curators or heads of specialized juvenile institutions shall consist in taking by the aforementioned persons a written pledge to provide the appearance of juvenile before the investigator, prosecutor, or court, as well as accomplishment by him of other obligations of a defendant envisaged in Article 46 of this Code.

Committing a juvenile under supervision of parents, guardians, curators or other persons shall be executed only by their consent and consent of the juvenile.

Prior to committing the juvenile under supervision, an inquiry officer, prosecutor, and court shall be obliged to collect information on his parents, guardians or curators, on their relations with the juvenile, and to ensure their ability to undertake proper supervision of the juvenile.

Parents, guardians, curators may refuse from the supervision of the juvenile at any time, under circumstances of being ill, busy at work or under worsening of relations with the juvenile and impossibility therefore to secure proper behavior of the juvenile.

When signing a pledge of committing the juvenile under supervision, parents, guardians, curators, or heads of specialized juvenile institutions shall be notified of the nature of conviction, under which this measure of restraint has been imposed, of penalty the juvenile may take, and liability of the aforementioned persons in the instance if the juvenile commits the acts to be prevented by committing the juvenile under guardianship. This information shall be entered in the official record of committing under supervision or in the official record of court session.

The person undertaking the guardianship over a juvenile may be charged with liability, as envisaged by law, due to failure of the defendant to perform his functions.

#### **Article 557. Commitment of Juvenile to Specialized Juvenile Institution**

Under availability of grounds for imposing measure of restraint in cases when the juvenile accused or defendant may not remain at place of former residence due to conditions of life and upbringing, he may be committed to the specialized juvenile institution by resolution of investigator, authorized by the prosecutor, or by finding of court.

#### **Article 558. Taking Juvenile Accused into Custody**

Taking into custody as a measure of restraint may be imposed to the juvenile only upon availability of grounds envisaged in Article 236 of this Code and in exceptional cases, when charged with the intentional crime commitment that may be followed by imprisonment for a term exceeding five years, and when other preventive measures may not provide the proper behavior of the defendant. *(As amended by the Law of 29.08.2001).*

When giving the approval for detention of juvenile, the prosecutor shall be obliged to get familiarized with the case file, verify the grounds for detention, be persuaded in exclusiveness of the case, and interrogate the accused on the circumstances related to application of this measure of restraint.

Juveniles taken into custody as a measure of restraint shall be kept separately from adults and convicted juveniles.

#### **Article 559. Completion of Pretrial Investigation and Familiarization of Juvenile with Case File Materials**

Legal representative of a juvenile shall be entitled to be present when the juvenile is notified of completion of pretrial investigation and submitted the case file materials. Investigator shall be obliged to notify the legal representative of the time and venue of familiarization of the defendant with the case materials.

Investigator shall be entitled to render a resolution on non-submission of the materials of the case file, which may negatively influence on the personality of the juvenile accused.

#### **Article 560. *In Camera* Hearing on Juvenile Offenses**

In cases envisaged in paragraph 1 and 2 of Article 19 of this Code the consideration of cases of juvenile offences is held *in camera*.

#### **Article 561. Removal of Juvenile Defendant from Courtroom**

The court, having heard the opinions of the defense counsel, legal representative of juvenile defendant, prosecutor, shall be entitled to remove by its finding the juvenile from the court room for the time of examining of circumstances which may negatively influence on the defendant.

Upon return of juvenile, the presiding judge shall notify him 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 questioned in his absence.

#### **Article 562. Notification of Case Consideration of Commission on Juvenile Affairs**

The court shall notify, if necessary, the commission on juvenile affairs of the time and venue of case consideration of juvenile offense. The court shall also be entitled to summon the representatives of the commission for questioning as witnesses.

#### **Article 563. Issues Resolved by Court while Entering Judgment in Respect to Juvenile Defendant**

When sentencing a juvenile defendant, besides the questions specified in Article 457 of this Code, the court shall be obliged to deliberate the necessity of appointment of a social educator for the juvenile in cases of conditional conviction, or penalty, not related to deprivation of liberty.

#### **Article 564. Relieve of Juvenile Defendant of Criminal Liability or of Penalty with Application of Compulsory Measures**

When relieving a juvenile from criminal liability with referring of case file for consideration in accordance with paragraph 1 of Article 87 of the Criminal Code, an investigator or prosecutor shall render a resolution and the court shall render finding to that effect.

During consideration of cases in respect of juvenile, in the instances envisaged in paragraph 2 and 3 of Article 87 of the Criminal Code, the court shall be obliged to deliberate the issue of relieve of a juvenile from criminal liability and of application of a compulsory measure. The court shall render a reasoned finding on application of or non-application of a compulsory measure.

Finding on application or non-application of a compulsory measure may be appealed and protested against by the way of general procedure.

### **CHAPTER 61. PROCEEDINGS ON APPLICATION OF COMPULSORY MEDICAL MEASURES**

#### **Article 565 Procedure for Consideration of Issues on Application of Compulsory Medical Measures**

Proceedings on application of compulsory medical measures shall be determined by general procedure and by Articles 566 – 588 of this Code.

#### **Article 566. Circumstances Subject to Proof**

During proceedings on a mentally disordered person, it shall be subject to proof, that this person has acquired mental disorder after committing an offense, and this mental disorder renders it impossible to impose or execute a sentence.

The following shall be subject to proof in proceedings on socially dangerous act committed by an insane person:

1. circumstances, envisaged in paragraphs 1, 2, and 5 of Article 82 of this Code;
2. whether the person had chronic mental disorder, temporary mental disorder, imbecility, or other unhealthy condition at the moment of commission of an offense, and therefore was in condition of insanity being unable to realize his actions or direct them;
3. mental condition of the person at time of pretrial investigation and trial.

Simultaneously, during proceedings on the person, who has acquired mental disorder after committing an offense, as well as on an insane person committed socially dangerous act, it shall be subject to proof, whether the behavior of the person may be connected with a danger to himself or to other persons, whether the person requires medical treatment or application of compulsory medical measures and what measures shall be applied.

#### **Article 567. Forensic Psychiatric Examination**

An investigator or court shall appoint forensic psychiatric examination to verify mental illness of the accused, defendant, or person, who is not engaged in the case as accused or defendant, only if there exist a verified evidence of commission an offence by the person or of socially dangerous act envisaged in Criminal Code, if substantiated doubts on sanity or mental health of this person by time of pretrial investigation or trial.

#### **Article 568. Issues Subject to Forensic Psychiatric Examination**

During conduction of forensic psychiatric examination the following issues shall be subject to verification:

1. whether at time of commission of socially dangerous act the person was in condition of mental disorder, temporary mental disorder, imbecility or other unhealthy condition being unable to realize his actions or direct them;
2. whether the person is in condition of mental disorder, due to which conviction and penalty may not provide correctional influence;
3. whether the disorder is chronic or whether the person may be recovered within a certain period of time;
4. whether the mental disorder may cause further commission of socially dangerous act;
5. whether the person is able, due to his mental condition, to give evidence, participate in inspections, examinations, experiments and other

- investigative or judicial actions in a proper way;
6. whether the person is possessing mental disabilities not excluding sanity and features thereof.

Commitment of person to a medical institution for forensic examination shall be conducted in accordance with Articles 265 – 269 of this Code.

#### **Article 569. Suspension of Proceeding of Criminal Case during Commitment of Person to Medical Institution.**

If there exist no necessity for other legal proceedings, the proceeding of case may be suspended for a period of commitment of person to medical institution, in the instance if the fact of mental or other severe illness of suspect, accused, or defendant has been established by the report of out-patient examination or by other medical documents and the in-patient examination is being conducting in order to clarify the diagnosis, to resolve the issue of sanity, capability, and to select compulsory medical measure.

Suspension of proceedings on case shall not suspend the legally established terms of custody of the accused and of commitment to medical institution.

#### **Article 570. Participation of Person in Investigative and Judicial Actions**

If a person being the subject of case on application of compulsory medical measures recovered or manifested stable remission and thus becomes capable of properly giving evidence at questionings and participating in other investigative or judicial acts, he shall be provided by an investigator and court with an opportunity to participate in the investigation, court hearing and to enjoy his right of defense.

A person being the subject of case on application of compulsory medical measures shall be entitled to: know what socially dangerous act he is imputed with; give testimonies; introduce evidence; file motions; get familiarized with all the case file materials upon completion of pretrial investigation; have a defense counsel; participate in case hearing; make challenges and file complaints against acts and rulings of investigator, prosecutor, or the court.

The rights, envisaged in paragraph 2 of this Article, shall be expounded to the person by the investigator during the announcement of a resolution to initiate proceedings on application of compulsory medical measures and order of forensic psychiatric examination. The official record on expounding of the rights shall be executed.

During proceeding of particular investigative and judicial actions the person shall have the rights envisaged by this Code for accused and defendant.

#### **Article 571. Participation of Defense Counsel**

A defense counsel shall participate in proceedings in a criminal case for applying compulsory medical measures from the moment of rendering the resolution to order a forensic psychiatric examination.

A defense counsel, upon his engagement, shall be entitled to conduct a meeting in private with the defendant, unless the health condition of the defendant impedes thereto, and to enjoy all the rights envisaged in Article 53 of this Code.

Prior to submission for execution of the resolution or finding to order a forensic psychiatric examination, the investigator or the court shall be obliged to familiarize the defense counsel therewith and secure his rights to: make a challenge to the appointed forensic examiner or forensic agency; request for appointment of a particular person as an forensic examiner; pose additional questions to the forensic examiner; request for permission to be present at the expert examination. Under availability of grounds therefor, investigator or the court shall grant the motion of the defense counsel and enter certain alterations and amendments to the resolution or ruling ordering the examination.

The rule of mandatory participation of a defense counsel in the case, envisaged in paragraph 1 of this Article, shall be in force, if according to report of forensic psychiatric examination this person has acquired mental disorder after committing an offense, or is insane, or has mental disabilities not excluding his sanity, but impeding his independent defense.

If, thereafter, upon the grounds of forensic psychiatric report, the person is proven to be sane and mentally healthy, the question of participation of a defense counsel in the case shall be settled by the way of general procedure.

#### **Article 572. Resolution on Referring Case to Court**

Upon familiarization of participants of the process with case file materials and granting motions, the investigator renders the resolution on passing the case to the court.

In descriptive-motivating part of the resolution the investigator shall refer to the circumstances envisaged in Article 566 of this Code, as well as the arguments of the defense counsel and other persons contesting the grounds for application of the compulsory medical measure, if such arguments were stated, and refer materials the case file providing the ground for application of a compulsory medical measure

The resolution to refer it to the court shall be attached with 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 physical evidence, on civil suit and measures for its satisfaction, and on procedural expenses.

#### **Article 573. Submission of case to Prosecutor and Referring Case to Court**

The criminal case file on application of compulsory medical measures with a resolution to refer it to the court shall be delivered by the investigator to the prosecutor.

The prosecutor, having familiarized himself with the case, shall make one of the following decisions:

1. of dismissing the criminal case on the grounds referred to in Articles 83 and 84 of this Code;
2. of remanding the criminal case to the investigator for supplementary investigation;

3. of approving the investigator's ruling and referring the criminal case to the court.

#### **Article 574. Preparation of Case for Trial**

Having received a criminal case on application of a compulsory medical measure, the judge shall order it for an examination in a court session according to the procedure envisaged by Articles 395 – 405 of this Code.

#### **Article 575. Trial**

Trial shall be conducted under rules envisaged in Chapters 50 – 52 of this Code.

The prosecutor and the defense counsel shall be obliged to participate in the trial.

A judicial investigation shall commence with the announcement by prosecutor of the resolution to refer the criminal case to court. Thereafter, the court with participation of the parties shall examine the evidence that proves or refutes the availability of grounds for application of compulsory medical measures: conduct questionings, views, announce the documents, listen to the forensic examiners and conduct other actions necessary for establishment of the issue.

Upon the completion of the investigation, the court shall come down to judicial pleadings of the parties. The prosecutor, victim, civil plaintiff, civil respondent, and their representatives shall participate in the pleadings. The defense counsel shall be the last to speak. The defense counsel shall also be the last to make objections.

Having heard the speeches of the parties, the judge shall leave for a separate room for rendering a finding.

#### **Article 576. Issues to Be Decided by Court in Deliberation Room**

The following questions shall be decided by court in a deliberation room:

1. whether an offense or socially dangerous act of an insane has actually occurred;
2. whether the offense or socially dangerous act has been committed by the person with respect to whom the criminal case is being tried;
3. whether this person is suffering mental illness;
4. whether a compulsory medical measure shall be applied for the person, has acquired mental disorder after committing an offense or who committed socially dangerous act in condition of insanity, and what measure shall be applied;
5. whether this person requires psychiatric treatment on general grounds.

The court shall also decide the questions envisaged in subparagraphs 10 – 14 of paragraph 1 of Article 457 of this Code.

#### **Article 577. Court Finding**

The finding of court on case of crime, committed by person, who has acquired mental disorder after committing an offense or who committed socially dangerous act in condition of insanity, shall be rendered in accordance with the following rules.

In the introductory part of the finding, the court shall indicate the name, patronymic and surname of the person in question; date, month, year and place of birth, place of residence, employer, type of activity, educational background, and other personal information, significant for the case.

In the descriptive-motivating part of the finding, the court shall indicate the circumstances underlying application or non-application of compulsory medical measure, introduce evidence that proves, questions, or refutes the grounds for application of this measure. The court thereupon shall formulate its answers for questions enumerated in Article 576 of this Code.

#### **The operative part of the finding, the court shall state one of the following decisions:**

1. to recognize that the offence has been committed by the person in a state of insanity or that the person, after committing the offense, has acquired a mental disorder to apply to him compulsory medical measures;
2. to dismiss the case due to absence of the event of crime or socially dangerous act imputed to the person in question;
3. to discontinue proceedings of the case on application of a medical compulsory measure due to the innocence of the person, and on remanding of the criminal case for additional investigation in order to identify the person who committed the offense;
4. to remand the case to the prosecutor for engagement of the identified person in the criminal case as an accused, and to complete pretrial investigation by the way of general procedure.

If the crime committed by person, who has acquired mental disorder after committing an offense or who committed socially dangerous act in condition of insanity has caused pecuniary damage, the question of its recovery shall be decided by the way of civil law procedure.

In case of discontinuation of proceedings in criminal case on application of compulsory medical measure with regard to a person who has mental disorders and who requires medical treatment in accordance with general rules, the court shall immediately notify to that effect a healthcare agency at the place of his residence.

#### **Article 578. Discontinuing or Altering Application of Compulsory Medical Measure**

The court shall discontinue or alter the compulsory measure of medical measure in the instance when the person, subject thereto, recovered or when his health condition underwent a change, which, while the person remained mentally disordered, stipulates application of a different medical from that initially imposed by court, or render unnecessary the application of such measures.

#### **Article 579. Reopening Criminal Case with Regard to Person to Whom Compulsory Medical Measure Has Been Applied**

In case of recovery of the person, to whom application of compulsory medical measure due to commission of an offense and acquisition mental disorder after committing thereof has been applied, the court shall be obliged to decide the question on reopening of proceeding in criminal case by the way of general procedure from the stage of acquisition of mental disorder.

#### **Article 580. Alteration or Discontinuing Application of Compulsory Medical Measure and Reopening of Proceedings**

The ground for consideration by court the issues of discontinuing or altering of compulsory medical measure and reopening of proceedings by the way of general procedure shall be:

1. a motion of the administration of medical institution, in which the person subject to compulsory medical measure has been committed, based upon the report of medical commission;
2. a presentation of the prosecutor based upon the report of medical commission;
3. a motion of the defense counsel, immediate relatives, legal representatives of this person and of other concerned persons, and of social organizations and collectives.

Issues of discontinuation or alteration of the compulsory medical measure and reopening of proceedings of case by the way of general procedure shall be considered by court, which has pronounced the ruling on application of compulsory medical measure, or by the court exercising jurisdiction over the place of application thereof.

The court shall notify the parties together with the administration of medical institution, persons, heads of social organizations and collectives, who have lodged a motion, of the appointment of case hearing.

The participation of the defense counsel and prosecutor in the court session shall be mandatory.

In case envisaged in subparagraph 3 of paragraph 1 of this Article, the judge, prior to ordering the criminal case for hearing, shall request a report of medical commission on health condition of this person from the respective medical institution.

If the medical report of the medical commission received through a or requested by the court causes doubt, the court may order a forensic psychiatric examination, request additional documents, and question the person, who is the subject of the filed motion, interrogate the victim, witnesses, and conduct other necessary actions.

Examination of evidence in court hearing shall be conducted in accordance with Articles 439 – 448 of this Code.

Upon completion of examining the evidence, the court shall hear the judicial pleadings of the parties, which consist of speeches of the prosecutor and defense counsel.

A finding to discontinue or alter, as well as to deny discontinuance, or alteration of application of a compulsory medical measure shall be rendered by the court and read out at the court session.

In the instance of denial to reopen or alter a compulsory medical measure, repeated motion may be accepted for consideration not earlier than six months after the finding to deny thereof.

#### **Article 581. Filing Complaint or Protest against Court Finding**

The person who is subject of the rendered finding, his defense counsel, the victim and his representative shall be entitled to make private complaints, and the prosecutor to file private protest against the finding on suspension or discontinuation of proceeding of case on application of compulsory medical measures, on application thereof, on their discontinuation or alteration, on reopening of proceeding by the way of general procedure and on denial to discontinue or alter compulsory medical measures, or to reopen proceeding by the way of general procedure.

The civil plaintiff or civil respondent shall be entitled to bring complaints against the court finding on the issue of application of compulsory medical measure in part pertaining to the civil suit.

Complaints and protests against findings, specified in this Article, shall be considered by a higher court in compliance with the rules envisaged by Articles 505 – 507 of this Code.

### **CHAPTER 62. PROCEEDINGS OF CONCILIATION\***

#### **Article 582. Criminal Cases Considered Regarding to Conciliation**

Cases on offenses mentioned in Article 66<sup>1</sup> of the Criminal Code may be subject to conciliation.

#### **Article 583. Request for Conciliation**

A request for conciliation may be submitted by a victim or civil plaintiff, or his legal representative on any stage of inquiry or pretrial investigation as well as court consideration, but before court's leaving for deliberation room.

The request shall mention the amends made for the damage caused and ask to discontinue the criminal case due to conciliation.

If a request for conciliation is submitted during the trial at the court of first instance, the court shall commence consideration thereof without delays.

If there exist several victims in a criminal case, the proceedings of conciliation may be initiated only by conciliation with all the victims.

When receiving a request for conciliation, an inquiry officer, investigator, prosecutor, and court shall be obliged to advise a victim or his legal representative that after the judgment of conciliation he shall not be entitled to file a motion to reopen proceedings in the criminal case.

#### **Article 584. Procedure for Referral of Criminal Case to Court**

An inquiry officer, investigator, or prosecutor, having received a request for conciliation from a victim, civil plaintiff, or his legal representative, shall render, within seven days, a resolution to refer the criminal case to court, with the consent of a suspect or accused.

The descriptive part of the resolution shall refer to: the grounds to initiate the criminal case, personal data on suspect and accused, offenses they are charged with, and measure of restraint applied to them, as well as content of the request for conciliation and attitude of

the suspect or accused thereto.

The operative part of the resolution shall contain decisions on, as follows:

- 1) referral of the case to the court;
- 2) measure of restraint and security for the civil suit;
- 3) physical evidence.

If several persons are engaged as suspect or accused persons and the conciliation has not been reached with all of them, the materials of the case in respect of the suspect or accused persons, with whom the conciliation has not been reached shall be severed into a separate proceeding that shall be conducted in accordance with the general procedure, with a note to that effect made in the resolution.

With the consent of the prosecutor, the case shall be referred, within three days, to the court.

#### **Article 585. Trial**

A court session on conciliation shall be held not later than ten days after delivery of the criminal case to the court.

The court session shall be held with participation of a suspect, accused, victim or a civil plaintiff, their legal representatives, defense counsels, and prosecutor.

Trial on reconciliation shall be opened with reading aloud the request for conciliation.

The court shall hear a suspect, accused, or victim or civil plaintiff on the circumstances of the offense.

The court shall establish:

- voluntary nature of and reasons for conciliation;
- voluntary nature of confession of guilt by the suspect, accused, or defendant;
- whether the suspect, accused, or defendant realized the consequences of the act committed by him and whether he has taken due measures to amend the damage caused;
- whether there exist any pressure on the victim or civil plaintiff, as well as on the suspect, accused, or defendant;
- issues pertaining to compensation for the pecuniary damage;
- consent of the suspect, accused, defendant or of their legal representatives to conciliation.

Thereupon, the court shall hear the opinions of the defense counsel and the prosecutor.

If, in the course of the court session, involuntary nature of the conciliation, of the confession of guilt, refusal from compensation for damage, as well as availability of constituent elements of a more serious *corpus delicti* in the act committed, the court shall render a finding to remand the case to pretrial investigation in accordance with general rules.

Upon the results of the trial, the court shall render finding in accordance with the procedure set by the law.

The official record of the court session shall be executed in accordance with the rule envisaged by Articles 90-92 of this Code.

#### **Article 586. Court Finding**

A finding of court shall be rendered in accordance with the following rules.

In an introductory part of a finding the following shall be identified:

- 1) time and venue of rendering the finding;
- 2) name of the court rendering the finding; surname, name, patronymic of the judge, secretary of the court session, parties, interpreter/translator;
- 3) last name, first name, patronymic of the suspect, accused, or defendant; year, month, date and place of his birth; permanent of residence, employer, occupation, educational background, and other information relevant to the case.

In a descriptive-motivating part of the finding, the circumstances underlying the conciliation and answers to the questions listed in Article 585 of this Code shall be stated.

In an operative part of the finding, the court shall set the issues regarding to:

- 1) approval of the official record of the court session and dismissal of the case or referral thereof to the prosecutor for supplementary investigation under general procedure;
- 2) imposed measure of restraint;
- 3) physical evidence;
- 3) compensation for the pecuniary damage.

A finding may be subject to private complaint by a suspect, accused, victim or a civil plaintiff, their legal representatives, defense counsel, or a private protest by a prosecutor.

## A C T

### OF THE SUPREME COUNCIL OF THE REPUBLIC OF UZBEKISTAN

#### ON THE ORDER OF IMPLEMENTATION OF THE CRIMINAL CODE OF THE REPUBLIC OF UZBEKISTAN AND THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF UZBEKISTAN

*Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1995: 1) 2*

The Supreme Council of the Republic of Uzbekistan **r u l e s t o**:

1. Implement the Criminal Code of the Republic of Uzbekistan and the Criminal Procedure Code of the Republic of Uzbekistan since April 1, 1995.
2. Free from all kinds of penalty, both primary and additional, the persons, who have been sentenced by April 1, 1995 under the Criminal Code of the Republic of Uzbekistan of May 21, 1959 for the acts not entailing criminal liability in accordance with the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
3. Discontinue proceedings being conducted by inquiry agencies, pretrial investigation, and courts on the acts not entailing criminal liability in accordance with the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
4. Bring into conformity the penalties of the persons, which were sentenced under the Criminal Code of the Republic of Uzbekistan of May 21, 1959 and have not finished their term, with the Criminal Code of the Republic of Uzbekistan of September 22, 1994 in the instances, when the penalty they were sentenced to is stiffer than that envisaged by appropriate article of the Criminal Code of the Republic of Uzbekistan of September 22, 1994. Reduction of penalty shall be executed by court up to extreme punishment envisaged by the relevant article of the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
5. In respect of persons, to whom conditional sentence to confinement with mandatory engagement in correctional labor (Article 23<sup>2</sup> of the Criminal Code of the Republic of Uzbekistan of May 21, 1959) or suspension of sentence (Article 44<sup>1</sup> of the Criminal Code of the Republic of Uzbekistan of May 21, 1959) have been applied, to commute the aforementioned sentences to conditional sentence (Article 72 of the Criminal Code of the Republic of Uzbekistan of September 22, 1994).
6. In respect of the persons, to which conditional release from confinement with mandatory engagement in correctional labor (Article 50<sup>2</sup> of the Criminal Code of the Republic of Uzbekistan of May 21, 1959) have been applied, to commute the remanent to a more lenient penalty as envisaged by Article 74 of the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
7. Change the treatment of persons serving their sentences in labor-correctional and juvenile-correctional institutions in accordance with the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
8. Exculpate persons freed from penalty in accordance with Paragraph 2 of this Act who served previously their sentences or were released from serving thereof on parole, in the instance if they had been sentenced for the acts that are not classified as crimes under the Criminal Code of the Republic of Uzbekistan of September 22, 1994.
9. Assign the execution of this Act:
  - (a) in respect of persons mentioned in Paragraphs 2, 4, 5, 6, 7 – to courts having jurisdiction over the places of service of sentence, by representation of respective custodian agencies;
  - (b) in respect to the cases to be dismissed in accordance with Paragraph 3 – to inquiry and pretrial investigation agencies, and courts.
10. Execute Paragraphs 2-7 of this Act by October 1, 1995.
11. Oblige the Supreme Court of the Republic of Uzbekistan, the Prosecutor's Office of the Republic of Uzbekistan, and the Ministry of Internal Affairs of the Republic of Uzbekistan to secure of execution of this Act.
12. Oblige the Cabinet of Ministers of the Republic of Uzbekistan:
  - to deliver, in a three month term, to the Supreme Council of the Republic of Uzbekistan suggestions on bringing legal acts of the Republic of Uzbekistan in compliance with the Criminal Code and the Criminal Procedure Code of the Republic of Uzbekistan of September 22, 1994;
  - to secure review and annulment by Ministries, State Committees, and Agencies of the Republic of Uzbekistan of their bylaws inconsistent with the Criminal Code and the Criminal Procedure Code of the Republic of Uzbekistan of September 22, 1994;
  - to secure, till January 1, 1996, drafting of bylaws resulting from the Criminal Code and the Criminal Procedure Code of the Republic of Uzbekistan of September 22, 1994.
13. Oblige the Ministry of Justice of the Republic of Uzbekistan to secure publishing, in a two-month term, of the Criminal Code and the Criminal Procedure Code of the Republic of Uzbekistan of September 22, 1994.

**Acting Chairman of the Supreme**

**Council of the Republic of Uzbekistan E.Khalilov**

The City of Tashkent

September 22, 1994

No. 2014-XII

**ACT**

**OF THE OILY MAJLIS OF THE REPUBLIC OF UZBEKISTAN**

**ON THE ORDER OF IMPLEMENTATION OF THE LAW OF THE REPUBLIC OF UZBEKISTAN "ON AMENDING THE CRIMINAL, CRIMINAL PROCEDURE CODES AND ADMINISTRATIVE LIABILITY CODE OF THE REPUBLIC OF UZBEKISTAN IN CONNECTION WITH LIBERALIZATION OF CRIMINAL PUNISHMENT"**

*Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 9-10) 166*

The Oliy Majlis of the Republic of Uzbekistan **r u l e s t o**:

1. Implement The Law of the Republic of Uzbekistan "On Amending the Criminal, Criminal Procedure Codes and Administrative Liability Code of the Republic of Uzbekistan in Connection with Liberalization of Criminal Punishment" (mentioned further as 'the Law') since the day of publication thereof;
2. Free from all kinds of punishment, both primary and additional, the persons, who have been sentenced by enactment of the Law for the acts not entailing criminal liability in accordance with the Law.
3. Discontinue proceedings being conducted by inquiry agencies, pretrial investigation, and courts on the acts not entailing criminal liability in accordance with the Law.
4. Bring into conformity the penalties of the persons, which were sentenced before enactment of the Law and have not finished their term, with the Law in the instances, when the punishment they were sentenced to is stiffer than that envisaged by appropriate article of Law. Reduction of punishment shall be executed by court up to extreme punishment envisaged by the relevant article of the Law.
5. Change the treatment of persons serving their sentences in labor-correctional and juvenile-correctional institutions in accordance with the Law.
6. Exculpate persons freed from punishment in accordance with Paragraph 2 of this Act who served previously their sentences or were released from serving thereof on parole, in the instance if they had been sentenced for the acts that are not classified as crimes under the Law.
7. Establish, that the sentences envisaging forfeiture as additional punishment that have not been implemented by the day of implementation of the Law, shall not be executed.
8. Assign the execution of this Act:
  - (a) in respect of persons mentioned in Paragraphs 2, 4, 5, 6, 7 – to courts having jurisdiction over the places of service of sentence, by representation of respective custodian agencies;
  - (b) in respect to the cases to be dismissed in accordance with Paragraph 3 – to inquiry and pretrial investigation agencies, and courts.
9. Execute Paragraphs 2-8 of this Act in a three-month term since the day of enactment of the Law.
10. Oblige the Supreme Court of the Republic of Uzbekistan, the Prosecutor's Office of the Republic of Uzbekistan, and the Ministry of Internal Affairs of the Republic of Uzbekistan to secure of execution of this Act.

**Acting Chairman of the Supreme**

**Council of the Republic of Uzbekistan E.Khalilov**

The City of Tashkent

September 22, 1994

No. 2014-XII

**LIST OF THE LAWS OF THE REPUBLIC OF UZBEKISTAN, WHICH AMENDED THE CRIMINAL CODE OF THE REPUBLIC OF UZBEKISTAN**

#	Date of Adoption	No.	Official Text	Date of Enactment
1	22.12.1995	179-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1995: 12) 269	20.01.1996

2	27.12.1996	357-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1997: 2) 56	22.02.1997
3	30.08.1997	485-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1997: 9) 241	28.10.1997
4	01.05.1998	621-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1998: 5-6) 102	30.05.1998
5	29.08.1998	681-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1999: 9) 181	05.10.1998
6	25.12.1998	729-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1999: 1) 20	18.01.1998
7	15.04.1999	772-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (1999: 5) 124	23.05.1999
8	20.05.2000	832-I	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2000: 9) 229	28.09.1999
9	26.05.2000	82-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2000: 5-6) 153	09.07.2000
10	31.08.2000	125-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 7-8) 217	01.10.2000
11	14.12.2000	163-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 1-2) 11	27.02.2001
12	15.12.2000	175-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 1-2) 23	20.01.2001
13	29.08.2001	254-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 9-10) 165	18.10.2001
14	30.08.2001	271-II	Proceedings of the Oliy Majlis of the Republic of Uzbekistan (2001: 9-10) 182	07.10.2001
15	25.04.2003		To be published	17.06.2003