The National assembly of
the socialist republic of Vietnam
XIth Legislature, IVth session
(From 21 October to 26 November 2003)

Criminal Procedure Code

In accordance with the 1992 Constitution amended, supplemented in consistence with Resolution 51/2001/QH10 on 25 December 2001 of the 10th session, Xth National Assembly;

This code defines process, procedure of institution, investigation, prosecution, trial of criminal cases and execution of criminal sentences.

Part one
General provisions
Chapter I
Tasks and legal enforcement of the Criminal Procedure Code

Article 1. Task of the Criminal Procedure Code

The Criminal Procedure Code defines process, procedure of institution, investigation, prosecution, adjudication and execution of criminal sentences; functions, duties, powers and relationship between bodies conducting criminal proceedings; duties, powers and responsibilities of persons conducting criminal proceedings; rights and obligations of persons participating criminal proceedings and institutions, organizations and citizens; international cooperation in criminal proceedings is to actively prevent crimes, precisely, timely expose and strictly deal with any criminal acts, not allowing criminals go free, not punishing innocent persons.

The Code shall make its contribution to protecting the socialist system, safeguarding lawful rights and interests of citizens, organizations and socialist legislation order; educating people in the sense of observance of the law, prevention from and struggle against crimes.

Article 2. The legal enforcement of the Criminal Procedure Code

Any criminal proceeding in territory of the Socialist Republic of Vietnam shall be conducted pursuant to this Code.

With regard to an alien committed an offence within territory of the Socialist Republic of Vietnam who is citizen of the foreign state joined international treaty which the Socialist Republic of Vietnam has signed or joined, the criminal proceedings shall be conducted pursuant to regulations of that international treaty.

With regard to an alien committed an offence within territory of the Socialist Republic of Vietnam who enjoys diplomatic privilege or consulate preferential treatment or immunity pursuant to Vietnam law, international treaties which the Socialist Republic of Vietnam has signed or joined or pursuant to international custom, the case shall be resolved by diplomatic channel.

Chapter II
fundamental Principles

Article 3. Ensuring Socialist Legislation in criminal proceeding

Any criminal proceeding of bodies conducting criminal proceedings, persons conducting criminal proceedings and persons participating criminal proceedings must be conducted in accordance with this Code.

Article 4. Respect for and ensuring of fundamental rights to security of citizen

In conducting criminal proceedings, Head, Deputy Head of Investigating Body, Investigator, Chief Procurator, Deputy Chief Procurator of Procuracy, Procurator, President, Vice-President of Court, Judge, Assessor shall, within limit of their responsibility, respect for lawful rights and legitimate interests of citizens, regularly examine whether adopted measures are lawful and necessary. In case if those measures were found to have been made in violation of law or no longer required, the foregoing authorities must abolish or change them immediately.

Article 5. Ensuring equal right of citizen before the law

Criminal proceedings shall be conducted in accordance with the principle that all citizens are equal before the law, regardless ethnic, sex, beliefs, religions and social origins. Any persons who committed offence shall be punished according to law.

Article 6. Ensuring the right to security of body of citizen

Nobody shall be arrested without a decision of Court, decision made or approved by Procuracy excepting red-handed offence.

Arrest and detention of a person must be undertaken pursuant to the provisions of this Code

Any coercion or body torture is strictly prohibited.

Article 7. Protection of life, health, honour, dignity, property of citizen

Citizens have the right to seek protection by law with respect to their life, health, honour, dignity and property.

Any acts causing a danger to life, health, honour, dignity, property shall be strictly punished by the law.

Where have grounds to believe that victims, witnesses, persons participating in criminal proceedings or their relatives are in a danger to life, health, be infringed upon honour, dignity, property, body who has competence to conduct criminal proceeding shall adopt necessary measures to protect them in accordance with provisions of law.

Article 8. Ensuring the right to security of residence, safety of correspondence, telephone conversation, telegraph of citizen

Nobody is permitted to infringe upon residence, safety of correspondence, telephone conversation, telegraph of citizen.

Search of residence, search, seize and forfeiture of correspondence, telegraphs in conducting proceedings must be made pursuant to provisions of this Code.

Article 9. Nobody is held guilty until a guilty judgment of a Court has acquired legal force

Nobody is held guilty and punished until a guilty judgment of a Court has acquired legal force.

Article 10. Determination of fact of case

Investigating Body, Procucuracy, Court shall adopt all lawful measures to determine facts of the case impartially, comprehensively and fully to clarify evidences of guilt or evidences of innocence, circumstances tending to aggravate and/or extenuate penal liability of the charged person and the accused.

Burden of proof shall be laid upon the bodies conducting criminal proceedings. The charged person and the accused shall be entitled but not bound to prove their innocence

Article 11. Ensuring the right to defense of detained person, the charged person and the accused.

Detained person, the charged person and the accused shall have the right to defense himself or retain other person to give defenses for him.

Investigating Body, Procuracy and Court shall have duty to ensure the defense for detained person, the charged person and the accused in conformity with provisions of this Code.

Article 12. Duty of body and person conducting criminal proceedings

Body and person conducting criminal proceedings when conducting proceedings shall strictly obey regulations of the law and be responsible for their acts and decisions.

Those who conducted arrest, detention, custody; institution, investigation, prosecution, adjudication or execution of judgments incorrectly and unlawfully, depending on the nature and gravity of the violation to discipline or prosecute them for penal liability. Any damages caused thereof shall be compensated in accordance with provisions of the law.

Article 13. Duty to institute and deal with a criminal case

When an offence has been discovered, Investigating Body, Procuracy and Court, within scope of their duty and their power, shall institute criminal proceedings and adopt measures prescribed for by this Code to determine the offence and deal with the offender.

A criminal proceeding shall not be brought except in accordance with the grounds and procedures prescribed by this Code.

Article 14. Ensuring impartiality of persons conducting or participating in criminal proceedings.

The Head, Deputy Head of Investigating Body, Investigator, Chief Procurator and his Deputies, Procurator, President and Vice - President of Court, Judge, Assessor, Court Secretary shall not be permitted to conduct proceedings or interpreter, expert shall not be permitted to participate in proceedings, should there exists good grounds to believe that they may be partial in exercising their duties.

Article 15. Exercising the principle of trial with participation of assessor.

Trial of People's Court shall be conducted with participation of People's Assessors, trial of Military Court shall be conducted with participation of Military's Assessor as prescribed in this Code. During trial, Assessor shall be equal in right with that of Judge.

Article 16. Judge and Assessor are independent and their conduct shall be pursuant to law only.

In hearing a case, judge and assessor shall be independent and their conducts shall be pursuant to law only.

Article 17. Bench

Court shall hear cases in a Bench and render decision by majority of votes

Article 18. Public hearing

Cases in court shall be heard in public, everybody shall have the right to participate in such hearing excepting cases prescribed in this Code.

In special case, to meet requirement of State secrecy or reserve good moral, good custom, secrecy of persons concerned, a close hearing shall be permitted however, that sentence shall be pronounced in public.

Article 19. Ensuring equal right before court

Procurator, the charged person, Defense Counsel, victim, civil plaintiff, civil defendant, persons having interests or obligations involved in the case and their legal representative, person protecting legitimate rights and interests of the person concerned shall have the equal right to produce evidences, related documents or objects, make claim and argue democratically before Court. The Court shall have duty to create conditions for them to enjoy their rights to ensure objective facts of the case.

Article 20. Exercising principle of the two – instance adjudication

1. Court shall exercise principle of the two-instance adjudication.

Judgments, decisions in the first instance of Court may be appealed, protested against as regulated in this Code.

Judgment, decision in the first instance which are not appealed, protested against, within the time provided in this Code, shall have acquired legal force. With respect to judgments, decisions in the first instance be appealed, protested against, the case shall be adjudicated at appeal level and the judgments, decisions made at appeal level shall have acquired legal force.

2. With respect to judgments, decisions of Court have acquired legal force but be found unlawful or new circumstances, will be reviewed under cassasional or re-opening procedure

Article 21. Supervision over trial

Higher Court shall exercise supervision over trial by lower Court. The Supreme People's Court shall exercise supervision over trial of People's Courts and Military tribunals of all levels to ensure unified and strict application of law.

Article 22. Ensuring enforcement of judgment and decision made by court

1. Judgments and decisions made by court which have acquired legal force must be executed and respected by all institutions, organizations and citizens. Individual, institutions and organizations concerned within their responsibility, must strictly comply with judgments and decisions of court and shall be responsible for the execution thereof pursuant to the law.

2. State agencies, authorities of commune, precinct and town, organizations and citizens within scope of their responsibility, shall coordinate with competent agencies, organizations in the execution of judgments, decisions made by Court.

State agencies, authority of commune, precinct, town shall create favorable conditions and satisfy requests made by competent agencies, organizations in the execution of judgment, decision made by Court.

Article 23. Initiation of public prosecution and supervision over compliance with law in criminal proceedings

1. Procuracy shall initiate public prosecution in criminal proceedings, make decision of prosecution to offender at Court.

2. Procuracy shall have duty to supervise over compliance with law in criminal proceedings, be responsible for promptly finding out criminal acts of agencies or persons conducting proceedings and persons participating in proceedings, adopting measures as regulated in this Code to exclude criminal acts of the above mentioned organizations or individuals.

3. Procuracy shall initiate public prosecution and supervises over compliance with law in criminal proceedings in order to ensure that every criminal act shall be promptly solved; the institution for legal proceedings, investigation, prosecution, adjudication and execution of judgment shall be posed to the right person, right crime and in accordance with law, every criminal acts and offender shall not go free and innocent people shall not be prosecuted.

Article 24. Spoken and written language used in criminal proceedings

Spoken and written language used in criminal proceedings is Vietnamese.. Persons participating in criminal proceedings shall have the right to use spoken and written language of their nation. In this case, an interpreter shall be caused to interpret or translate.

Article 25. Responsibility of organizations and citizens in the prevention and struggle against crimes

1. Organizations and citizens shall have the right and duty to find out, expose criminal acts; participate in the prevention and combat against crime, make contribution to the protection of State interests, lawful rights and legitimate interests of citizens and organizations.

2. Body conducting criminal proceedings shall have duty to create favorable conditions to enable organizations, citizens to participate in criminal proceedings; give response of dealing with information and denunciation of crime thereof to organizations or persons who provided it.

3. Organizations, citizens shall have duty to satisfy requirement from bodies and persons conducting criminal proceedings and create favorable conditions for them to perform their duty.

Article 26. Coordination between bodies conducting criminal proceedings and other state bodies

1. State bodies, within the limit of their responsibility, shall adopt measures of prevention from crimes; coordinate with Investigating Body, Procuracy, Court in the prevention from and the combat against crimes.

State bodies shall examine, inspect the performance of their assigned functions and duties regularly; promptly find out criminal acts and inform all criminal acts in their office or in the field of their management to Investigating Body, Procuracy; have the right to petition and send related documents to Investigating Body, Procuracy for examination, initiation for legal proceedings to the offenders.

Head of State agencies shall be responsible for their un-notification of criminal acts taken place in their office or in the field of their management to Investigating Body, Procuracy.

State agencies are responsible for satisfying requirements of bodies or persons conducting proceedings and creating favorable conditions for them to perform their duty.

Every acts to obstruct activities of bodies or persons conducting proceeding shall be banned.

2. Inspection body shall be responsible for coordinating with Investigating Body, Procuracy, Court in the finding and handling crimes. A case when be found any criminal acts shall be transferred it's documents and petition Investigating Body, Procuracy for review and institute criminal proceedings.

3. Investigating Body, Procuracy, within their scope, shall review, handle notification of crimes, petition the institution of criminal proceedings and respond the out-come thereof to state agencies who gave the notification or petition.

Article 27. Discovery and exclusion of causes and conditions of crime

During criminal proceedings, Investigating Body, Procuracy and Court shall have duty to find out causes and conditions of crime, request institutions and organizations concerned to apply measures for exclusion and prevention of those causes and conditions.

Institutions and organizations concerned shall respond with respect to execution of the request of the Investigating Body, Procuracy and Court.

Article 28. Settling civil issues in a criminal case

Civil issues in a criminal case shall be handled together with the settlement of the criminal case. In case a criminal case dealing with compensation or refund but does not have enough evidences, the civil issues shall be separated from the criminal case to be dealt with according to civil procedure provided that such a separation does not affect the settlement of the criminal case as a whole.

Article 29. Ensuring the right to compensation and restitution of honor, interests for the innocence

A person be prosecuted unlawfully causing by a person having competence in criminal proceedings, shall have the right to compensation and restitution for his honor and interests.

Competent body who did unlawful actions in criminal proceedings must pay compensation and apply measures for restitution of honor, interests for the victims; person who committed an unlawful action shall be responsible for refunding for competent body according to provisions of law.

Article 30. Ensuring the right to compensation for victims made by competent bodies or persons conducting proceedings

Any person suffered from damages made by bodies or persons conducting legal proceedings shall have the right to compensation.

Competent body in criminal proceedings must pay compensation for victims, person who has caused damages must refund for the competent body in conformity with provisions of law.

Article 31. Ensuring the right to complaint and denunciation in criminal proceedings

Citizens, agencies, organizations shall have the right to file a complaint, citizens shall have the right to file a denunciation against unlawful actions in criminal proceedings made by bodies or persons conducting criminal proceedings or any other persons of these bodies.

Competent bodies shall receive, examine and handle complaints, denunciations promptly and in accordance with law, notify the out-come thereof in writing to person who filed complaints or denunciations and adopt measures to deal with the case.

Order, procedure and jurisdiction to deal with complaints or denunciations shall be provided in this Code.

Article 32. Supervision of agencies, organizations, public representatives over activities of bodies and persons conducting proceedings

State agencies, Vietnam Fatherland Front Committee, member organizations of the Front, public representatives shall have jurisdiction to supervise activities of bodies and persons conducting proceedings; supervise the handling over complaint, denunciation of bodies, persons conducting proceedings.

If any unlawful acts made by bodies or persons conducting proceedings were discovered, state agencies, public representatives shall have the right to request, Vietnam Fatherland Font Committee and member organizations of the Front shall have the right to petition to competent bodies conducting proceedings for reviewing and settling as provided in this Code. Competent body conducting proceedings shall be responsible for considering, settling and responding the petitions, requests in accordance with provisions of law.

Chapter III

Bodies and persons conducting proceedings and alteration of persons conducting proceedings

Article 33. Bodies and persons conducting proceedings

Bodies conducting proceeding consist of:

a) Investigating Bodies;

b) Procuracies;

c) Courts

Persons conducting proceedings consist of:

a) Heads, Deputy Heads of Investigating Bodies, Investigators;

b) Chief Procurators, Deputy Chief Procurators of Procuracies, Procurators

c) Presidents, Deputy Presidents of Courts, Judges, Assessors, Court's Secretaries.

Article 34. Duties, powers and responsibilities of Head, Deputy Head of Investigating Bodies

1. Head of Investigating Body shall have the following duties and powers:

a) Directly organizing and guiding the whole investigating activities of Investigating Bodies;

b) Making decision to assign tasks for Deputy Heads of Investigating Bodies, Investigators in the investigation of criminal cases.

c) Reviewing investigating activities made by Deputy Head of Investigating Bodies and Investigators;

d) Making decision to alter or remove groundless or unlawful decisions made by Deputy Heads of Investigating Bodies and Investigators;

e) Making decision to alter Investigator;

f) Settling complaints, denunciation belong to jurisdiction of Investigating Body

In circumstance, Head of Investigating Body is absent, a Deputy Head of Investigating Body shall be authorized by Head of Investigating Body to take over duties, powers of the head. The Deputy Head of Investigating Body shall be responsible for the assigned tasks to the Head of Investigating Body.

2. Head of Investigating Body, when conducting investigation of a criminal case, shall have the following duties and powers:
a) Making decision to institute legal proceeding of a case, the charged person; decision not to institute legal proceeding of a case; decision to integrate or separate a case;
b) Making decision to adopt, alter or remove deterrent measures;
c) Making decision to issue warrant of hunting to the charged person, search, seize, inventory of properties, settle material evidences;
d) Making decision to give public forensic examination, corpse excavation;
e) Giving conclusion of investigation to a case;
f) Making decision to temporarily suspend investigation, suspend investigation or restore investigation;
g) Directly conducting investigating measures, issuing, revoking certification of defend counsel; making decisions and conducting other proceedings in conformity with competence of Investigating Body.
3. A Deputy Head of Investigating Body, when be assigned to conduct an investigation of a criminal case, shall have duties and powers as prescribed in clause 2 of this article.
4. Head, Deputy Head of Investigating Body shall be responsible for their acts and decisions to the law.
Article 35. Duties, powers and responsibilities of investigators
1. Investigator who is assigned to conduct investigation in a criminal case shall have the following duties and powers:
a) Compiling case-dossier of a criminal case;
b) Summoning and interrogating the charged persons; summoning and obtaining testimonies from witnesses, victims, civil plaintiffs, civil defendants, persons having interests and obligations involved in the case.
c) Making decision to escort the charged person and witness;
d) Executing warrant of arrest, detention, custody, search, seize, inventory of property;
e) Conducting site examination, corpse examination, confrontation, identification, investigating experiment;
f) Conducting other investigation belong to jurisdiction of Investigating Body under the assignation of Head of Investigating Body.
2. Investigator shall be responsible for their acts and decisions to the law and the Head of Investigating Body.
Article 36. Duties, powers, responsibilities of Chief Procurator, Deputy Chief Procurator of Procuracy
1. Chief Procurator of Procuracy shall have the following duties and powers:
a) Organizing and instructing the whole activity of initiation of public prosecution and supervision over compliance with law in criminal proceedings;
b) Making decision to assign Deputy Chief Procurators and Procurators in the initiation of public prosecution and supervision over compliance with law in criminal proceedings of criminal cases;
c) Reviewing activities relating to initiation of public prosecution and supervision over compliance with law of criminal proceedings conducted by Deputy Chief Procurators and Procurators;
d) Protesting against judgments, decisions of Courts which have acquired legal force under cassasional or re-opening procedure as prescribed by law;
e) Making decision to alter, remove groundless or unlawful decisions made by Deputy Chief Procurators of Procuracys or Procurators;
f) Making decision to withdraw, suspend or remove groundless or unlawful decisions of Procuracys of lower levels;
g) Making decision to alter Procurators;
h) Settling complaints, denunciation under jurisdiction of Procuracy.
In circumstance where Chief Procurator is absent, a Deputy Chief Procurator shall be authorized by Chief Procurator to take over duties, powers of Chief Procurator, the Deputy Chief Procurator shall be responsible for his assigned tasks to Chief Procurator;
2. Chief Procurator, when initiating public prosecution and supervising over compliance with law in proceedings of a criminal case, shall have duties and powers as follow:
a) Making decision to institute or not institute legal proceeding of a case, decision to institute legal proceedings of the charged person; requesting Investigating Body to institute legal proceedings or alter

decision of institution of legal proceeding of a criminal case, of the charged person in accordance with provisions of this Code;
b) Requesting Head of Investigating Body to alter investigator;
c) Making decision to adopt, alter, abolish deterrent measures; extend time limit of investigation, detention; request Investigating Body to conduct the search to the charged person;
d) Making decision to approve or not approve decisions made by Investigating Body;
e) Making decision to abolish groundless or unlawful decisions made by Investigating Body;
f) Making decision to transfer case;
g) Making decision to prosecute, render case-dossier for additional investigation, conduct forensic examination;
h) Making decision to temporarily suspend or suspend case, restore investigation and settle material evidences;
i) Protesting against judgments, decision made by Court according to appellate procedure;
j) Issuing, revoking certification of defend counsel; making decisions and conduct other proceedings in conformity with competence of Procuracy.
2. Deputy Chief Procurator, when be assigned to initiate public prosecution and supervise over compliance with law in proceedings of criminal cases, shall have duties and powers as prescribed in item 2 of this Article.
3. Chief Procurator, Deputy Chief Procurator shall be responsible for their acts and decisions to the law.
Article 37. Duties, powers and responsibilities of Procurators
1. Procurators who are assigned to initiate public prosecution and supervise over compliance with law in criminal proceedings of criminal cases, shall have duties, powers as follow:
a) Supervise over institution of legal proceedings; supervise over investigation and the compilation of case dossier made by Investigating Body;
b) Make request of investigation;
c) Summon and interrogate the charged person; summon and obtain testimonies from witness, victim, civil plaintiff, civil defendant, persons having interests, obligation involved in the case;
d) Supervise the arrest, detention, custody;
e) Participate in court-hearing, read bill of indictment, decision of Procuracy relating to the handle of case; bring out evidences and exercise accusation, give opinion on the settlement of case; argue with persons participating in proceedings at the trial;
f) Supervise compliance with law over adjudication of Court, persons participating criminal proceedings and judgments, decisions made by Court;
g) Supervise over execution of judgments, decisions made by Court;
h) Exercise other duties and powers within jurisdiction of Procuracy under the assignment of Chief Procurator of Procuracy.
2. Procurator shall be responsible for their acts and decisions to the law and the Chief Procurator of Procuracy.
Article 38. Duties, powers and responsibilities of President, Vice President of Court
1. President of Court shall have duties and powers as follow:
a) Organizing activities of adjudication of Court;
b) Making decision to assign Vice Presidents, Judges, Assessors to handle, adjudicate criminal cases; make decision to assign Court Secretary to conduct proceedings to a criminal case;
c) Making decision to alter Judge, Assessor, Court's Secretary before opening a trial;
d) Protesting against judgments, decisions which have acquired legal force of Court according to cassasional procedure as prescribed in this Code;
e) Making decision to execute criminal judgment;
f) Making decision to suspend execution of imprisonment judgment;
g) Making decision to temporarily suspend execution of imprisonment judgment;
h) Making decision to remiss criminal records;
i) Settling complaints, denunciation under jurisdiction of Court.
In case the President is absent, a Vice President shall be authorized to take over his duties and powers. The Vice President shall be responsible for his assigned tasks to the President.

2. President, when settling a criminal case, shall have duties and powers as follow:
a) Making decision to apply, alter or abolish measure of detention; decision to settle material evidences;
b) Making decision to transfer the case;
c) Issuing, revoking certification of defend counsel; making decision and conducting other proceedings within jurisdiction of Court;
3. Vice President, when be assigned to settle, hear a criminal case, shall have duties, powers as prescribed in Item 2 of this Article.
4. President, Vice President shall be responsible for their acts and decisions to the law.
Article 39. Duties, powers, responsibilities of Judges
1. Judges who are assigned to settle, hear a criminal case shall have duties and powers as follow:
a) Working on the case-dossier before opening a court hearing;
b) Participating in the trial of a criminal case;
c) Conducting criminal proceedings and voting on issues within jurisdiction of making decision of Bench;
d) Conducting other proceedings under jurisdiction of Court according to the assignment of President of Court.
2. Judge shall be assigned to chair the trial, beside duties, powers as prescribed in Item 1 of this Article, have the following duties and powers:
a) Making decision to adopt, alter or abolish deterrent measures as provided in this Code;
b) Making decision to render case-dossier for additional investigation;
c) Making decision to bring case to court; decision to suspend or temporarily suspend the case;
d) Making decision to summon related persons to court for interrogation;
e) Conducting other proceedings within jurisdiction of Court under the assignment of President of Court.
3. In respect of Judge holding position of President, Vice-President of Appellate Court of the Supreme People's Court shall have the right to issue, revoke certification of defend counsel.
4. Judge shall be responsible for his acts and decisions to the law.
Article 40. Duties, powers and responsibilities of Assessors
1. Assessor, when be assigned to hear a criminal case, shall have duties and powers as follow:
a) Working on case-dossier before opening a court hearing;
b) Participating in court-hearing of criminal cases according to the first instance or appellate procedure;
c) Conducting activities within jurisdiction and voting on issues within jurisdiction of making decision of Bench.
2. Assessor shall be responsible for his acts and decisions to the law
Article 41. Duties, powers and responsibilities of Court's Secretary
1. Court's Secretary who is assigned to conduct proceedings to a criminal case shall have duties and powers as follow:
a) Disseminating regulations of a court hearing;
b) Reporting to Bench list of persons who are summoned to the trial;
c) Writing record of the trial;
d) Conducting other activities within jurisdiction of Court under assignment of President of Court.
2. Court's Secretary shall be responsible for their acts to the law and to President of Court.
Article 42. Refusal or alteration of persons conducting proceedings.
Persons conducting criminal proceedings must refuse to conduct proceedings or be replaced if:
1. They are the victims, civil plaintiff, civil defendant; person having interests and obligations involved in the case; legal representative, relatives of those persons or to the charged person or the accused;
2. They have taken part in the case as Defense Counsel, witness, expert, interpreter;
3. There exist other grounds to raise reasonable doubt that they may be partial in exercising of their duties.
Article 43. The right to request for alteration of person conducting proceedings
The persons listed below shall have the right to request for alteration of person conducting proceedings;
1. Procurator;

2. The charged person, the accused, victim, civil plaintiff, civil defendant and their legal representative;
3. Defense Counsel, persons protecting interests of the victims, civil plaintiff, civil defendant.
Article 44. Alteration of investigator
1. Investigator must refuse to conduct proceedings or be altered if:
a) he falls under one of circumstances prescribed in Article 42 of this Code;
b) He has conducted proceedings in this case as Procurator, Judge, Assessor or Court's Secretary;
2. Alteration of Investigator shall be decided by Head of Investigating Body;
In case the altered Investigator is Head of Investigating Body falling one of circumstances provided in item 1 of this Article, investigation of the case shall be transferred to a higher Investigating Body.
Article 45. Alteration of Procurator
1. Procurator must refuse to conduct proceedings or be altered if:
a) he falls under one of circumstances prescribed in Article 42 of this Code;
b) He has conducted proceedings in this case as Investigator, Judge, Assessor or Court's Secretary;
2. Alteration of Procurator before opening a trial shall be decided by Chief Procurator of Procuracy at corresponding level;
If the altered Procurator is Chief Procurator of Procuracy, his alteration shall be decided by Chief Procurator of higher Procuracy.
In case of alteration of procurator in court session, the Bench shall decide to delay the court session.
A replaced Procurator shall be assigned and decided by Chief Procurator at corresponding or higher level
Article 46. Alteration of Judge, Assessor
1. Judge or Assessor must refuse to take part in court hearing of a case or shall be altered if:
a) he falls under one of circumstances prescribed in Article 42 of this Code;
b) They are in the same Bench and are relatives to each other;
c) They have participated in trial of case as court of first instance or appellate court, or conducted proceedings of the case as Investigator, Procurator, Court's Secretary.
2. Alteration of Judge, Assessor prior to opening of the court session shall be decided by President of Court. If the altered Judge is President of Court, the alteration shall be directly decided by the President of higher Court.
Alteration of Judge, Assessor at court session shall be decided by the Bench by voting before commencement of the hearing. A member whose alteration is under consideration, shall present his own opinion and the Bench shall decide the alteration by majority of votes.
In case of alteration of Judge, Assessor in court session, the Bench shall decide to delay the court session.
Appointment of a new member of the Bench shall be decided by President of Court.
Article 47. Alteration of Court Secretary
1. A Court Secretary must refuse to conduct proceeding or shall be altered if:
a) He falls under one of circumstances as prescribed in Article 42 of this Code;
b) He has conducted proceedings in this case as Procurator, Investigator, Judge or Assessor.
2. Alteration of Court Secretary prior to court session shall be decided by President of Court.
Alteration of Court Secretary in court session shall be decided by the Bench.
In the case of alteration of Court Secretary in court session, the Bench shall decide to postpone court session.
Appointment of another Court Secretary shall be decided by President of Court.
Chapter IV
Person participating in proceedings
Article 48. Detained person
1. A detained person is the one who has been arrested in urgent circumstance, in the act, in hunting warrant or who has confessed, given himself up and whose detention has been decided.
2. Detained person shall have the right to:
a) be informed of reason of their detention;
b) be informed their rights and duties;
c) present his testimony;
d) to defense himself or retain his Defense Counsel;

e) to produce related documents, objects, make request;
f) to make complaint against his detention, decisions, acts of competent bodies or persons conducting proceedings.
3. The detained person shall have duty to obey regulations of detention as provided by the law.
Article 49. The charged person
1. The charged person is a person who has been charged with an offence.
2. The charged person has the right to:
a) be informed of the specific offence charged;
b) be informed of his rights and obligations;
c) present his testimony;
d) produce related documents, objects, make request;
e) request for alteration of person conducting proceedings, expert, interpreter as provided in this Code;
f) Defense himself or retain his Defense Counsel;
g) be given a copy of order on institution of the case, order on adoption, alteration, abrogation of deterrent measures; conclusion of investigation; decision of suspension, temporary suspension of investigation, decision of suspension, temporary suspension of case; bill of indictment, decision of prosecution; other decisions of proceeding as provided in this Code;
h) make complaint against decisions, acts of bodies or persons conducting proceedings;
3. The charged person must appear upon summon made by Investigating Body, Procuracy; in case of failure to appear without legitimate excuses, they may be subject to escort; or be subject of a hunting warrant if they are escaped.
Article 50. The accused
1. The accused is a person whose case has been brought to court for trial.
2. The accused has the right to:
a) be given order to bring case to court for trial, order on adoption, alteration, abrogation of deterrent measures; judgment, decision of Court; other decisions of proceedings as provided in this Code;
b) participate in the court session;
c) be informed of his rights and obligations;
d) request for alteration of person conducting proceedings, expert, interpreter as provided in this Code;
e) produce related documents, objects or make claims;
f) defense himself or retain his Defense Counsel;
g) give his own opinion, debate in court session;
h) say the last words before rendering of judgment
i) make appeal against judgment, decision made by Court;
k) complain against decisions, acts of body or person conducting proceedings;
3. The accused must appear upon summon made by Court; in case of failure to appear without any legitimate excuses, they may be subject to escort; or be subject of a hunting warrant if they are escaped.
Article 51. Victim
1. Victim is the one who suffered from physical, mental injury or property damages caused by crime.
2. Victim or his legal representative shall have the right to:
a) produce related documents, objects or make claims;
b) be informed of the conclusion of investigation;
c) request for alteration of persons conducting proceedings, expert, interpreter according to provisions of this Code;
d) claim amount of compensation and secured measures thereof;
e) participate in the court session; give his opinions, debate in court session to protect his lawful rights and legitimate interests;
f) complain against decisions, acts of bodies or persons conducting proceedings; make appeal against judgments, decisions made by Court with respect to damages and punishment imposed on the accused;
3. Where the case be instituted upon request of the victim prescribed for in Article 105 of this Code, the victim or his legal representative shall present accusation in court session.

4. The victim shall appear upon summon issued by Investigating Body, Procuracy, Court; should the victim refuses to give statement without any good reason, they may be liable according to Article 308 of the Penal Code.
5. In case the victim died, his legal representative shall have the right as prescribed in this Article.
Article 52. Civil plaintiff
1. Civil plaintiff is individuals, institutions, organizations who suffered from damages caused by crime and have filed claim for damages.
2. Civil plaintiff or his legal representative shall have the right to:
a) produce related documents, objects, make claims;
b) be informed of conclusion of investigation;
c) Request for alteration of persons conducting proceedings, expert, interpreter as prescribed in this Code;
d) claim amount of damages and secured measure thereof;
e) participate in court session; give his opinions, debate in court session to protect rights and interests of civil plaintiff;
f) complain against decisions, acts of bodies or persons conducting proceedings;
g) make appeal against judgments, decisions made by Court concerning damages.
3. Civil plaintiff shall appear upon summons issued by Investigating Body, Procuracy, Court and honestly produce circumstances relating to claim for compensation of damages
Article 53. Civil defendant
1. Civil defendant is individuals, institutions, organizations who, pursuant to provisions of law, shall be liable for compensation of damages caused by his criminal acts.
2. Civil defendant or his legal representative shall have the right to:
a) make complaint against compensation for damages filed by the civil plaintiff;
b) produce related documents, objects, make claims;
c) be informed of conclusion of investigation relating to claim for compensation of damages;
d) request for alteration of persons conducting proceedings, expert, interpreter according to provisions of this Code;
e) participate in court session; give his opinions, debate in court session to protect legitimate rights and interests of the civil defendant;
f) make complain against decisions, acts of bodies or persons conducting proceedings;
g) make appeal against judgments and decisions made by Court with regard to compensation of damages.
3. Civil defendant shall appear upon summons issued by Investigating Body, Procurcy, Court and honestly produce circumstances relating to the claim for compensation of damages
Article 54. Persons having interests and obligation involved in the case
Person having interests and obligations involved in the case or his legal representative shall have the right to:
a) produce related documents objects, make claims;
b) participate in court session; give his opinion, debate in court session to protect his legitimate rights and interests;
c) make appeal against judgments or decisions made by Court with respect to matters directly concerning his interests or obligations;
d) make complain against decisions, acts of bodies, persons conducting proceedings.
2. Person having interests and obligations involved in the case shall appear upon summons issued by Investigating Body, Procuracy, Court and honestly produce his knowledge directly relating to his interests and obligations.
Article 55. Witness
1. Any persons having knowledge of any act concerning the case, may be summoned as witness.
2. Persons who are not permitted to be witness:
a) Defense Counsel of the charged person, the accused;
b) Any person due to his physical or mental defects, can not neither properly realize facts of the case nor give statements accurately.

3. The witness shall have the right to:
a) request body who issued summons to ensure their life, health, honor, dignity, properties and his other lawful rights and interests when participating in proceeding;
b) make claim against decisions, acts of body, person conducting proceeding;
c) be paid for their traveling and other expenses as regulated by law appear upon summons of Investigating Body, Procuracy, Court;
4. Witness shall have obligations to:
a) be appear upon summons issued by Investigating Body, Procuracy, Court; in case he intentionally refuse to appear without any good excuses and his absence obstructs the investigation, prosecution, adjudication, shall be subject to escort;
b) give true statements concerning any fact of the case that he has knowledge about.
The witness who refused or avoided to give information and statement without any good reason, shall be subject to penal liability according to Article 308 of the Penal Code; should a witness give a false information or statement shall be subject to penal liability as provided in Article 307 of the Penal Code.
Article 56. Defense Counsel
1. Defense Counsel may be:
a) Lawyer;
b) Legal representative of the detained person, the charged person, the accused;
c) People's Advocate;
2. Following persons shall not be permitted to act as Defense Counsel:
a) Person who have conducted proceedings in that case or is relatives to persons who have conducted or are conducting proceedings in that case;
b) Person who participated in that case as witness, expert or interpreter.
3. One Defense Counsel may defend several detained persons, the charged persons, the accused in a same case, should their rights and interests are not contrary to each other. A detained person, a charged person or an accused may be defended by several Defense Counsels.
4. Investigating Body, Procuracy, Court, within 3 days from the days of receiving proposal from Defense Counsel enclosing documents relating to the defense, shall examine, issue certificate for Defense Counsels to enable him to exercise his duty, should they refuse to issue the certificate, specific reasons shall be pointed out.
With respect to case of detention, Investigating Body within 24 hours from the time of receiving proposal of Defense Counsel enclosing documents relating to the defense, shall examine, issue certificate for Defense Counsel to enable him to exercise his duty. Should the Investigating Body refuse to issue the certificate, specific reasons shall be pointed out.
Article 57. Selection and alteration of Defense Counsel
1. The Defense Counsel shall be selected by the detained person, the charged person, the accused or their legal representative.
2. Should the charged person, the accused or their legal representative do not retain Defense Counsel, Investigating Body, Procuracy or Court shall have duty to request Bar Association to send a Defense Counsel for them or request Vietnam Fatherland Front Committee, member organizations of the Front to send a Defense Counsel for member of their organization in the following circumstances:
a) The charged person, the accused is charged with an offence of the severest punishment of which is the death penalty prescribed for in the Penal Code;
b) The charged person, the accused is juvenile, or person who suffered from physical or mental defects.
Notwithstanding cases envisaged in point a and b, item 2 of this Article, the charged person, the accused and his legal representative shall have the right to request alteration or refuse to accept the appointed Defense Counsel.
3. Vietnam Fatherland Front Committee, member organizations of the Front shall have the right to appoint people's advocate to defend the detained person, the charged person, the accused who are members of their organization.
Article 58. Rights and duty of Defense Counsel
1. Defense Counsel shall participate in proceedings from the time when the charged person has been instituted for legal proceedings. In the case of arrest as prescribed in Articles 81 and 82 of this Code, the

Defense Counsel shall participate in proceedings since receiving decision of detention. Where it deems necessary to keep secret of investigation regarding to crime of infringing upon national security, Chief Procurator of Procuracy shall order Defense Counsel to participate in proceedings upon conclusion of investigation.

2. Defense Counsel shall have the right to:

a) appear when taking testimony from detained person, interrogating the charged person, may raise question to the detained person, the charged person if Investigator agree, appear in other investigating activities; read records regarding activities of his participation and other decisions relating to his client;

b) be informed in advance of time and place interrogating the charged person which enable him appear at the time of interrogation;

c) request for alteration of the persons conducting proceedings, expert, interpreter according to the provisions of this Code;

d) collect related documents, objects, circumstances relating to the defense from the detained persons, the charged person, the accused, their relatives, their office, organization or individual upon request of the detained person, the charged persons, the accused if it is not belong to the state or job secrecy;

e) provide related documents, objects, make claims;

f) meet with the detained person, the charged person, the accused who are under custody;

g) access the case-dossier, write and transcript documents relating to his defense therefrom upon conclusion of investigation in conformity with law;

h) participate in hearing and oral argument in court session;

i) make claim against decision, acts of body, persons conducting proceedings;

k) to make appeal against judgments, decisions of the Court should the accused is juvenile or person suffering from physical or mental defects as provided in point b, item 2, Article 57 of this Code.

3. Defense Counsel shall have duty to:

a) assert all means permitted by law to find out circumstances evidencing innocence of the detained person, the charged person, the accused, circumstances tending to extenuate penal liability of the charged person, the accused;

Defense Counsel, depending on period of proceeding, shall be responsible for transfer collected documents, objects relating to the case to Investigating Body, Procuracy, Court. The transfer of documents and objects between the Defense Counsel and body conducting proceeding shall be presented in record as prescribed in Article 95 of this Code;

b) provide the detained person, the charged person, the accused with legal assistance in order to protect their lawful rights and legitimate interests;

c) not to be permitted to refuse to defend the charged person, the accused whose case has been received by him without any legitimate excuses;

d) respect facts of case and law; not to be permitted to bribe, coerce or incite other persons to give false information or provide false documents;

e) appear upon summons of Court;

f) not to disclose secrets which have become to his knowledge during exercising of his duty; not to use the transcribed documents in the case dossier for the purpose of infringing upon state interests, legitimate rights and lawful interests of agencies, organizations and individuals.

4. Should the Defense Counsel did illegal act, depending on the nature and gravity of violation, shall be revoked certificate of defense, principled, fined or prosecuted for penal liability; shall compensate if causing any damages in accordance with the law.

Article 59. Person protecting rights and interests of related persons

1. The victim, civil plaintiff, civil defendant, persons having interests and obligations involved in a criminal case shall have the right to retain lawyer, people’s advocate or other person accepted by the Investigating Body, Procuracy, Court to defend their rights and interests.

2. Person protecting rights and interests of related persons may participate in proceedings from the time at which the charged person has been instituted for legal proceedings.

3. Person protecting rights and interests of related persons shall have the right to:

a) provide related documents, objects, make claims;

b) read, write or transcribe documents in the case-dossier relating to the protection of rights and interests of related persons after termination of investigation as provided by the law;
c) participate in interrogation and oral argument in court session; examine record of court session;
d) make complaint against decision, acts of body or person conducting proceeding.
Person protecting rights and interests of victims, civil plaintiff, civil defendant shall have the right to request for alteration of person conducting proceedings, expert, interpreter as prescribed in this Code. Should the related person is juvenile or person suffering from physical or mental defects, persons protecting rights and interests for them shall have the right to appear when body conducting proceedings obtain testimony from the person that he defend for; make appeal against judgments, decisions of Court that relates to interests, obligations of the persons that he have duty to defend.

4. Person protecting rights and interests of related person shall have duty to:
a) assert all means permitted by law to find out the truth from facts of the case;
b) provide related person with legal aids in order to protect their legitimate rights and interests.

Article 60. Forensic expert

1. Forensic expert is the one who has required knowledge of the matter to be examined at the request by body conducting proceedings as regulated by law.
2. Forensic expert shall have the right to:
a) access to the documents of the case concerning matters to be examined;
b) demand the body requesting for forensic examination to provide him documents necessary for making conclusion;
c) participate in interrogation, obtain testimony and pose question with regard to matter to be examined;
d) refuse forensic examination in case when the time is not enough to carry out the expert examination; documents provided are not enough or not valuable to render conclusion; content requested of the forensic examination is beyond his specialized knowledge;
e) write his own opinion in the general conclusion in case forensic examination be carried out by collective and he does not agree with that conclusion.
3. Expert must appear upon summons issued by Investigating Body, Procuracy, Court; must not disclose secrets of investigation which he has obtained during participating in proceedings as an expert.
A forensic expert who refuses to give opinion on matters required to be examined without any legitimate excuse, shall be subject to penal liability as prescribed in Article 308 of the Penal Code. With respect to forensic expert who makes false conclusion shall be subject to penal liability according to Article 307 of the Penal Code;
4. Forensic expert must refuse to participate in proceedings or should be altered, if:
a) He falls under one of circumstances prescribed for by item 1 and item 3, Article 42 of this Code;
b) He has conducted proceedings in capacity of Head, Deputy Head of Investigating Body, Investigator, Chief Procurator, Deputy Chief procurator of Procuracy, Procurator, President, Vice President of Court, Judge, Assessor, Court Secretary or has participated in the case as a Defense Counsel, witness or interpreter.
Alteration of a forensic expert shall be decided by the body requesting for forensic examination.

Article 61. Interpreter

1. Interpreter is a person appointed by Investigating Body, Procuracy, Court in case persons participating proceedings are not versed in Vietnamese language.
2. Interpreter must appear upon summons and perform assigned duty honestly; not to be permitted to disclose secret of investigation; in case of giving false interpretation, the interpreter shall be subject to penal liability as prescribed in Article 307 of the Penal Code.
3. An interpreter must refuse to take part in proceedings or should be altered, if:
a) He falls under one of circumstances referred to in item 1 and item 3, Article 42 of this Code;
b) He has conducted proceedings as Head, Deputy Head of Investigating Body, Investigator, Chief Procurator, Deputy Chief Procurator of Procuracy, Procurator, President, Vice President of Court, Judge, Assessor, Court Secretary or has participated in the case in capacity of a Defense Counsel, witness, interpreter.
The alteration of interpreter shall be decided by body appointed the interpreter.

4. These regulations will apply to a person who is able to communicate with deaf and mute people.
Article 62. Duty to advice and ensure the rights and obligations of persons participating in proceedings
Body, person conducting proceedings shall have duty to advice of and ensure the rights and obligations of persons participating proceedings in accordance with provision of this Code. Such advice must be written in a record.
Chapter V
Evidences
Article 63. Facts required to be proved in a criminal case
In the course of investigation, prosecution and adjudication of a criminal case, Investigating Body, Procuracy, Court must determine:
1. Whether a criminal act has been committed, the time, place of the criminal act and other circumstances of the act;
2. Who committed the criminal act, with or without intention, by will or negligence; whether the person committed criminal act has capacity to penal liability; purpose or motivation of the act;
3. Circumstances tending to aggravate or extenuate the penal liability of the charged person, the accused and their personality;
4. Nature and amount of damages caused by the criminal acts.
Article 64. Evidence
1. Evidence means anything in existence taken in according with the rule prescribed by this Code, whereby Investigating Body, Procuracy and Court could determine whether a criminal act has been committed, person committed the act and other circumstances necessary for accurate handling of the case.
2. Evidence shall be included;
a) Material evidences;
b) Testimonies given by witnesses, victim, civil plaintiff, civil defendant, persons having interests and obligation involved in the case, the arrested, the detained person, the charged person, the accused;
c) Forensic examination conclusion;
d) Record on investigation, adjudication and other objects, documentary evidences.
Article 65. Taking of evidence
1. Investigating Body, Procuracy and Court, in order to take evidences, have the right to summon those persons who have obtained knowledge of the case to ask them and hear their statements on the facts concerning the case, request for expert examination, conduct searches, test and other proceedings prescribed for by this Code; request institutions, organizations and individuals concerned to provide documents, objects, statements or circumstances relating to the case.
2. Persons participating in proceedings, institutions, organizations or individuals may present documents, objects and statements on the facts relating to the case.
Article 66. Evaluation of evidence
1. Every evidence shall be evaluated to examine its legality, reality and concerns with the case. The definition of collected evidences shall be ensured to handle a criminal case
2. Investigator, Procurator, Judge and Assessor, after thoroughly and objectively considered circumstances of the case with full spirit of responsibility, shall examine and evaluate all evidences of the case.
Article 67. Testimony by witness
1. A witness shall give statement of the facts concerning the case that he has obtained knowledge thereof, personality of the arrested, the detained person, the charged person, the accused, the victim, his relationship to the arrested, the detained person, the charged person, the accused, the victim, other witnesses and shall give answer to question pose to him.
2. The fact provided by the witnesses shall not be deemed as a evidence unless they are able to tender the reason why they have obtained knowledge of that fact.
Article 68. Testimony by victim
1. A victim shall present facts of the case, his relationship to the arrested, the detained person, the charged person, the accused and given answers to questions posed to him.

2. The fact provided by the victim shall not be regarded as an evidence unless he is able to tender the reason why he has obtained knowledge of that fact.

Article 69. Testimony by civil plaintiff, civil defendant

1. A civil plaintiff, civil defendant shall present the facts concerning damages caused by criminal acts.

2. The fact provided by civil plaintiff, civil defendant shall not be regarded as an evidence unless he is able to tender reason why he has obtained knowledge of that fact.

Article 70. Testimony by persons having interests, obligations involved in the case

1. Person having interests, obligations involved in the case shall present the facts that directly relating to his interests and obligations.

2. The fact provided by person having interests and obligations shall not be regarded as an evidence unless he is able to tender the reason why he has obtained knowledge of that fact.

Article 71. Testimony by the arrested person, detained person

The arrested person, the detained person shall make statement concerning the fact that he is suspected to commit criminal act.

Article 72. Testimony by the charged person, the accused

1. The charged person, the accused shall make statement on the facts of the case;

2. Confession made by the charged person, the accused shall only be considered as an evidence should the confession be consistent with other evidences of the case.

The confession by the charged person and the accused should not be deemed as a sole evidence for making judgment.

Article 73. Forensic expert opinion

1. An expert shall give his opinion on the facts required to be examined and be severely responsible for the opinion.

Opinion of forensic expert must be presented in writing document

Where forensic examination be conducted by a group of experts, the record therein shall be signed by all members of the group. In case there appears different opinions among experts, their own opinions shall be written in the common conclusion.

2. Should the body conducting proceedings does not satisfy with the opinion of forensic expert, they must give reason thereof, or should the opinion is unclear or otherwise uncompleted, an additional forensic examination or a new forensic examination shall be conducted according to general rules.

Article 74. Material evidence

Material evidence shall include anything which have been used as instrument and means for criminal purposes; things having any traces of crime; things serving as subject matter of the crime and other things or money whereby the offence and offender could be proved.

Article 75. Taking and preservation of material evidence

1. Material evidence should be taken timely, fully and their actual state must be described in a record and put in the case-dossier.

Where it is impossible to put material evidences into the case-dossier, a photo thereof must be taken and entered the case dossier.

2. Material evidence should be kept in act against any lost, confusion or damages. The seal and preservation of material evidences shall be carried out as follow:

a) With respect to evidence need to be put under seal, it must be done without delay after their taking. The seal or opening of the seal shall be conducted according to provisions of law and a record shall be made to put in to the case dossier.

b) Should material evidences are money, gold, silver, valuable matter and stone, antique articles, explosive, inflammable, hazardous or radioactive devices, they must be examined by expert without delay after their taking and be promptly delivered to the bank or other specialized agencies for preservation;

c) Should the material evidences which are impossible to transfer to body conducting proceedings for preservation, the body shall give these evidences to the owner or the legal administrator of things or property, or to their relatives, local authority, institution or organization where the evidence belong to for preservation.

d) With respect to material evidences which are easy to be destroyed or difficult to preserve, if it is not prescribed in item 3 Article 76 of this Code, competent bodies mentioned in item 1 Article 76 of this Code, within their jurisdiction, shall determine to sell it in conformity with the law and transfer the money get from evidence selling to the detained account of competent body who is responsible for preserving evidence at State treasure for preservation.
e) Should material evidences are brought in body conducting proceeding for preservation, Public Security Institution shall be responsible for preserving of the material evidence during the time of investigation, prosecution; Body for Judgment Execution shall be responsible for preserving of the material evidence during the time of adjudication and execution of judgment.
3. Should a person who is responsible for preserving of material evidence cause any losses, damages or should the material evidences of case are broken its seal, or be transferred, exchanged fraudulently, hidden, destroyed thereto, depending on the nature and gravity of the commitment to be disciplined or be subject to penal liability as provided in Article 310 of the Penal Code; if that person add, cut down, modify, exchange fraudulently, destroy or willfully entailed the material evidences with intention to divert the content of the case dossier, he shall be subject to penal liability according to Article 300 of the Penal Code; if causing any damages he shall pay compensation in accordance with provisions of law.
Article 76. Dealing with material evidences
1. Where the case has been suspended at stage of investigation, the dealing with material evidences shall be decided by Head, Deputy Head of Investigating Body; where the case has been suspended at stage of prosecution, the matter shall be decided by Chief Procurator, Deputy Chief Procurator of Procuracy; where the case has been suspended at stage of adjudication, the matter shall be decided by President, Vice President of Court, the Bench. The execution of decision on dealing with the material evidences must be presented in a record.
2. Material evidences shall be deal with in the following manners:
a) Material evidences which are tools, means of a crime, prohibited goods shall be confiscated, put into State treasury or destroyed
b) Material evidences which are objects, money belongs to ownership of State, organizations, individuals be appropriated by offender or be used as means of crime, shall be returned to the owners or their legal administrator; should the owner or their legal administrator are not found, those assets and money shall be declared to become the state property;
c) Material evidences which are money or properties obtained by committing crime, shall be put into state treasury;
d) Material evidences which are easy to be destroyed or difficult to preserve, shall be sold in conformity with provision of law;
e) Unvalued and useless material evidences shall be confiscated and destroyed
3. In the course of investigation, prosecution and adjudication of the case, competent bodies referred to in item 1 of this Article shall have the right to decide the return of the material evidences mentioned in point b, item 2 of this Article to the owners or their legal administrator provided that such return would not adversely influence the resolving of the case.
4. In case there exist any disputes upon ownership to material evidences such dispute shall be settled according civil procedure.
Article 77. Record on investigation and adjudication
Those facts described in a record on arrest, search, cite examination, examination of corpse, confrontation, identification, investigating experiment, record of court session and record of other proceedings conducted pursuant to the provision of this Code, may be considered as evidences.
Article 78. Other documents, objects of the case
Facts concerning the case contained in the documents as well as objects provided by institutions, organizations or individuals may be considered as evidences.
Those documents, objects shall be regarded as evidences should they have the feature prescribed for by Article 74 of this Code.
CHAPTER VI
DETERRENT MEASURES
Article 79. Reasons for taking deterrent measure

To promptly deterrence crime, or when there exist grounds to believe the charged person, the accused would cause obstacle to investigation, prosecution and adjudication of the case or would further commit crime, and when it necessary to ensure execution of the sentence, the Investigating Body, Procuracy, court within their jurisdictions in legal proceeding or the competent persons may take one of the following measures: arrest, remand in custody, detention, prohibition of leaving from domicile, guarantee, release on bail.

Article 80. Arrest of the charged person and the accused

1. The following officials shall have the right to issue arrest warrant:

a) The chief procurator, deputy chief procurator of People's Procuracy and military Procuracy of all levels;

b) The president, vice president of the People's Court and the military court of all levels;

c) The judge holding the position of the president, vice president of the Appeal Court of the Supreme People's Court; Bench;

d) The head and his deputy of Investigating Bodies at all levels. In this case, however, the arrest warrant must be ratified by the Procuracy of the corresponding level before it could be executed.

2. The arrest warrant must indicate the date, name, title of the person issuing it, the name, address of the person to be arrested and grounds on such arrest. The arrest warrant must be signed by the person issued it and be stamped.

The executor must read out to the arrested person and explain the warrant, his rights and obligations and make a protocol on the arrest.

In case the arrest takes place at the arrested person's domicile, it must be conducted with the witness of the local authorities of commune, ward, town and his neighbors. In case the arrest takes place at the arrested person's working place, it must be conducted with the witness of the representatives of agency, organization where the arrested person works. In case the arrest takes place in other places, it must be conducted with the witness of the local authorities of commune, ward, or town at the place of the arrest.

3. The arrest of a person at night shall not be allowed except in urgent case, flagrant delicto or wanted person as provided for by Article 81, 82 of this Code.

Article 81. Arrest person in urgent cases

1. Arrest of a person shall be allowed in the following urgent case:

a) Where there exist ground to believe that person is preparing to commit a very serious offence or particularly serious offence;

b) In case the victim or other person present at the place of the offence have eye-witnessed the commission of the offence and recognized the person committed it and the arrest is necessary to prevent the perpetrator from escaping.

c) In case the evidences of an offence have been discovered on person or domicile of the suspect and the arrest is necessary to prevent that person from escaping or destroying evidences.

2. The following officials shall have the right to issue arrest warrant in urgent cases:

a) The head, his deputy of the Investigating Bodies at all levels;

b) The commander of a detachment of the armed forces or regional or corresponding levels; the commander of the border security unit in islands and frontiers;

c) The commander of airplane, vessel while leaving the airport, seaport.

3. The arrest warrant and its execution in case of urgency must strictly be made in accordance with Article 80, item 2 of this Code.

4. In any event urgent arrest must be informed promptly in writing, with the relevant dossier attached, to the Procuracy of the corresponding level for approval.

The Procuracy must strictly supervise the grounds for arrest in urgent case as provided in this Article. In case of necessity, the Procuracy may directly meet and questioning the arrested person before considering and deciding to ratify or not to ratify on the warrant.

Within a 12 hour-period since receiving the proposal for ratification and relevant dossier relating to the urgent arrest, the Procuracy must issue the decision to ratify or the decision not to ratify. In case the Procuracy decide not to ratify, the arrested person shall be released promptly.

Article 82. Arrest person on flagrant delicto or wanted person.

1. In respect to a person committing an offence or person who has been discovered or chased promptly after his commission of the offence, as well as the wanted person, every body shall have the right to arrest and produce them to the nearest police station, Procuracy or people's committee. The above-mentioned institutions shall make protocol thereof and produce the arrested person to an appropriate Investigating Body without delay.
2. In arresting a person on flagrant delicto or a wanted person, everybody shall have the right to deprive the arrested person of his weapons.
Article 83. Action to be taken without delay after receiving arrested person
1. After receiving the person arrested in case of urgency or on flagrant delicto, the Investigating Bodies must promptly take his (or her) statement, and shall, within a 24 hours- period, issue a warrant on detention or release the arrested person.
2. In respect of the wanted person, the Investigating Bodies must, after taking his or her statement, promptly send a notice to the body, which has issued the order on hunting down the wanted person to come to their institution and receive that arrested person.
After receiving the wanted person, the body, which has issued the order on hunting down, must promptly issue decision on suspension of hunting down. In case the body, which has issued the order on hunting down the wanted person, can not come and receive that person, the investigation body must promptly issue the order on remanding in custody, and promptly send a notice to the body which has issued the order on hunting down that wanted person.
After receiving the notice, the bodies issuing the order on hunting down the wanted person and having the power to arrest for detention, must promptly issue the warrant of detention and send this warrant, which has been ratified by the Procuracy at the same level, to the Investigating Body, which receiving the arrested person. After receiving the warrant of detention, the body receiving the arrested person is responsible for producing that person to the nearest detention house.
Article 84. Protocol of the arrest
In any event, the executor or the arrest warrant must make a protocol.
The protocol should clearly indicate the date, place of the arrest, the place of making protocol, actions has been taken, matters occurred during the execution of the arrest warrant, things and documents seized and complain by the arrested person.
The protocol should be read out to the arrested person and other persons present at the place of making such protocol. The arrested person, executor of the arrest warrant and other persons present at the place of making such protocol must sign in. In case there is any person having different opinions or disagreeing with the content of the protocol, these persons have the right to put such opinion in the protocol and sign it.
Seize of things belongs to arrested person must be conducted according to provisions of this Code.
2. In transferring and receiving the arrested person, the transferring and receiving bodies must take a protocol thereof.
A protocol made in such situation, besides information referred to in the item 1 of this Article, must include the transfer of protocol on taking of statement, collected things, health condition of the arrested person and any matters occurred during the transfer.
Article 85. Notice of arrest
An official issuing the arrest warrant, the Investigating Body receiving the arrested person must promptly notify thereof to the arrested person's family, local authority of commune, ward town or agency, organizations where that person domiciles or works. If giving such a notice would obstacle the investigation, the official issuing the arrest warrant must give a notice thereof promptly after such obstacle no longer existed.
Article 86. Remanding in custody
1. Remand in custody may be imposed on the person who has been arrested in case of urgency, who has been caught in the acts, person committed crime who confess, person committed crime who surrender him-/herself or who has been arrested under the order on hunting down.
2. The officials who have the right to issues arrest warrant in case of urgency referred to in Article 81, item 2 of this Code, the commander of sea police at the regional level shall have the right to order that arrested person be remanded in custody.

The executor of the order on remanding in custody must explain the rights and obligations of the person being temporarily kept in custody.
3. Within a 12 hour-period since issuing the order on remanding in custody, that order must be sent to the Procuracy of the corresponding level. The Procuracy shall, if it deemed the remanding in custody is unnecessary and groundless, rescind such order and release the person under custody without delay.
An order on remanding in custody must clearly indicate grounds of remanding in custody, date of remanding in custody. A copy of the order must be given to the person being kept in custody.
Article 87. Period of remanding in custody
1. Period of remanding in custody shall not exceed 3 days from the date the arrested person has been received by the Investigating Body.
2. In case of necessity, the official issuing order on remanding in custody may extent the period of remanding in custody, but not exceeding 3 days. In special case, the official issuing order on remanding in custody may make another extension of such period but not exceeding 3 days. Any extension made by the above mentioned official must be approved by the Procuracy at the same level; within a 12 hour-period since receiving the proposal and the relevant dossiers relating the extension of the remanding in custody, the Procuracy must issue the decision to ratify or the decision not to ratify.
3. During the period of remanding in custody, if there is no ground sufficiently to institute a criminal case against the charged person, the person being kept in custody must be released without delay.
4. Period of remanding in custody shall be included into detention period. One day being kept temporarily in custody is equivalent to one detained day.
Article 88. Detention
1. Detention may be imposed on the charged person, the accused under the following circumstances:
a) the charged person, the accused committed particularly serious crime or very serious crime;
b) the charged person, the accused committed serious crime or less serious crime, that the Criminal Code provides the penalty for that crime is more than 2 years of imprisonment and there is ground that person can escape or cause obstacles for the investigation, prosecution, adjudication or would commit further crimes.
2. In case the charged person, the accused are pregnant woman or has to feed her child under the age of 36 months, is a weak old person, person cases, and has plain address of his domicile, shall not be subjected to the measure of detention, but other deterrent measures instead, except for the following circumstances:
a) the charged person, the accused escape and be arrested under the order on hunting down;
b) the charged person, the accused is subjected to other deterrent measures but committing further offence, causing serious obstacles for investigation, prosecution, adjudication.
c) the charged person, the accused committed offence infringing national security and there exists ground sufficiently to believe that without taking detention measure to them could harm to the national security.
3. Those official who have the right to issue arrest person as stated in Article 80 of this Code shall have the right to make the warrant of detention. A warrant of detention issued by officials envisaged in Article 80, item 1, point d of this Code must be ratified by the Procuracy at the same level, before it can be executed. Within a 3 days-period from the date of receiving the warrant of detention, the proposal for ratification, case dossier and other documents relating to the detention, the Procuracy must issue the decision to ratify or the decision not to ratify. The Procuracy must promptly return the case dossier for the Investigating Body upon the completion of ratification.
4. The body issuing the warrant of detention must check the identity of the detained person and promptly notify to detained person’s family and local authority of commune, ward, town or agencies, organizations where the detained person domiciles or works.
Article 89. Regime of remanding in custody and detention
Regimes of remanding in custody and detention differ from that of a person serving imprisonment. Place of remanding in custody and detention, regime of living, regime of receiving of gifts, connecting with the family and other regimes are implemented according the provisions promulgated by the Government.

Article 90. Taking care of relatives and preservation of property of person under remanding in custody and detained person

1. If a person under remanding in custody or a detained person has children under 14 years of age and his relatives are handicapped or weal-old who have no one to take care of, bodies issuing warrant of remanding in custody or order on detention shall give those individuals to their relatives for taking care of them. In case a person being kept in custody or a detained person has no relatives, bodies issuing warrant of remand in custody or order on detention shall give those individuals to local authority for taking care of them.

2. In case a person under remanding in custody or a detained person have dwelling or other property which have no one to look after, bodies issuing warrant of remanding in custody or order on detention must take appropriate preservative measures.

3. Bodies issuing warrant of remanding in custody or order on detention shall inform the person under remand in custody or the detained person of the taken measures.

Article 91. Prohibition of leaving from one's domicile

1. The prohibition of leaving from one's domicile is a deterrent measure, which may be taken to the charged person, the accused who has plain address of his domicile, aiming at ensuring their appearance upon their receipt of the writ of summon of the Investigating Body, the Procuracy and the court.

2. Those official as provided in Article 80, item 1 of this Code, the presiding judge shall have the right to issue the warrant of prohibition of leaving from one's domicile.

The charged person, the accused must file a form of commitment not to leave from their domicile and present at the time and the place stated in the summons.

Those official issuing the warrant of prohibition of leaving from one's domicile must notify to institutions of state power in the village, city section where the charged person, the accused domiciles and authorize these institutions to administer and supervise them. In case the charged person, the accused, having the legitimate grounds, has to temporarily leave from their domicile, they must obtain permission thereof from the bodies taking the deterrent measure.

3. The charged person, the accused infringing the warrant of prohibition of leaving from one's domicile shall be taken other deterrent measures.

Article 92. Guarantee

1. Guarantee is a deterrent measure to replace the detention measure. In considering the nature, the seriousness of the criminal act and the identity record of the charged, the accused person, the Investigating Body, the Procuracy and the court may decide to take the guarantee measure for these persons.

2. Individuals may give guarantee for the charged person, the accused who is their relatives. In so doing, there must be at least two persons. Organizations may give guarantee for the charged person, the accused who is member of their organization. In so doing, the individuals or organizations must make a form of commitment not to let the charged person, the accused to commit further crime and guarantee the appearance of the charged person, the accused upon summons by Investigating Bodies, Procuracy or court. When making a form of commitment, individuals or organizations are informed on details of the case relating to their guarantees.

3. Those officials as provided in Article 80, item 1 of this Code, the presiding judge shall have the right to decide on guarantee.

4. Individuals giving guarantee for the charged person, the accused must have good moral quality, strict observance with the law, the guarantee must have the affirmation of local authority of commune, ward, town where the charged person, the accused domiciles or of the bodies, agencies where they work. In case the organization gives guarantee, there must be the affirmed signature of the head of that organization.

5. Individuals or organizations serving as guarantor shall be liable for any breach or their obligations stated in the commitment.

Article 93. Bail money or property

1.The bail money or property is a deterrent measure to replace the detention measure. In considering the nature, the seriousness of the criminal act, the identity record of the charged and the accused

person, the state of their property, the Investigating Body, the Procuracy and the court may decide to take the measure of bail money or property for these persons to assure their appearance upon summon.
2.Those officials as stipulated in Article 80, item 1 of this Code, the presiding judge shall have the right to decide for bail in money or property. Decision of those officials as provided in Article 80, item 1, point d of this Code must be ratified by the Procuracy of the corresponding level, before it could be executed.
3. The bodies deciding for the bail money or property must make a protocol on the bail in money or property, which clearly indicate the amount of money, name and state of the bailed property. A copy of that protocol must be given to the charged person or the accused.
4. In case the charged person, the accused fail to appear without due reason upon summons of Investigating Bodies, Procuracy, court, the bail property shall be confiscated, and the charged person, the accused shall be taken other deterrent measures.
In case the charged person, the accused fully complies with the obligations under his or her commitment, bodies conducting criminal proceeding are responsible for returning the bailed money or the bailed property for them.
5. The order, procedure, the amount of bailed money or the value of the bailed property, temporarily seize, return or non-return the bailed money or bailed property are stipulated in the law provisions.
Article 94. Rescission or alteration of deterrent measures
1. Where a case has been suspended, any taken deterrent measures must be rescinded.
2. Investigating Bodies, Procuracy, court shall rescind the deterrent measures if they deem those measures are no longer necessary, or may take another deterrent measure instead.
In respect to the deterrent measures approved by the Procuracy, the rescission or alteration must be decided by that Procuracy.
CHAPTER VII
PROTOCOL, PERIOD, COSTS OF TRIAL
Article 95. Protocol, period, cost of trial
1. In conducting proceedings, protocol in a unified form is compulsory required to be made.
A protocol must clearly indicate the place, date of conducting proceedings, commencing and ending date, nature of proceedings, persons conducting, persons participating or persons concerning in the legal proceedings, the complains, demands.
2. Protocol of court session must be signed by the presiding judge and court secretary; protocol on other proceedings must be signed by persons in each case according to provisions of this Code. Amendments made to protocol must also be confirmed by their signature.
Article 96. Calculation of period
1. Period provided for by this Code shall be calculated by hour, day and month. Nighttime run from 22 o’clock pm to 6 o’clock am of the next day.
In calculation of period by days, the last day of a period shall end at 24 o’clock of the last day of the period; while in the calculation of those by month, the last day of a period shall be the same day of the ending month; if there is no concurrent day in such a month, a period shall end at the last day of this such month; if the last day of a period falls on a non-working day, the period shall end at the following working day.
In calculation of period of the remanding in custody or detention, the last day of a period shall end at the date indicated in the warrant. If the period is calculated by month, a month is equivalent to 30 days.
2. In respect to applications on documents transmitted by mail, a period shall be calculated according to the date indicated by post service. In application or documents transmitted through supervision board of prison, the period shall be calculated from the date at which the board has received the application or documents.
Article 97. Renewal of period
If a period has been overrun without any due reason, body conducting proceedings must renew such period.
Article 98. Cost of trial
Cost of trial include any expenses connected with conducting of criminal proceedings, including remuneration due to witness, victim, expert witness, interpreter, defense council appointed by the court and other relevant costs as provided in law provision; the cost of civil trial in the criminal case.

Article 99. Payment of cost of trial
1. Costs of trial shall be charged to the convicted person or shall be born by the state as provided in law provisions.
2. The convicted person shall pay costs of trial according to decision of the court.
3. If the case has been prosecuted upon request of the victim, and if the court has pronounce the accused innocent, costs of trial shall be charged to the victim.
Part two
Institution and investigation of criminal case
Chapter VIII
Institution of criminal case
Article 100. Institution of criminal case
A criminal case shall be instituted only when it is determined that the offence has been committed.
Determination of whether the offence has been committed must be based on the following sources:
Disclosure by citizen;
Information bay sate agencies or social organization;
Information in mass media of communication;
4. Investigating Body, Procuracy, court, border security forces, custom service, forestry inspection, sea police and other bodies of the people's police, people's army assigned to conduct some investigating activities, directly discovered evidence of an offence.
5. Confession by the offender.
Article 101. Disclosure and information of crime
Citizen may disclose an offence and inform thereof to Investigating Bodies, Procuracy or other agencies and organizations. If information of the disclosure is made orally, the receiving body must make a protocol thereof with signature of the person who discloses the offence.
An agency or organization must, when find out or received disclosure by citizen, send a written notice thereof to Investigating Bodies without delay.
Article 102. Confession by the offender
When an offender come to a state agency to give his confession, the agency must file a protocol clearly indicating the name, age, occupation, address and testimonies of the confession person. An agency, organization receiving that confession person is responsible for informing the Investigating Body or the Procuracy.
Article 103. Duty to handle disclosure and information of crime
1. The Investigating Body, Procuracy is responsible for receiving all disclosure and information of the offence from the individuals, bodies, agencies or organizations. The Procuracy is responsible for promptly sending all received disclosure and information of the offence and the requests for instituting of a criminal case to the authorized Investigating Body.
2. Within a 20 day-period from the date of receiving disclosure or information of the offence, the Investigating Body, within limitation of their responsibility, must ascertain the information and decide whether to institute a criminal case.
In case of complicated disclosure or information of crime, or they must be ascertain in many different places, the period for handling disclosure and information of crime may be extended, but not exceeding two months.
3. The results of handling such disclosure, information of offence or request for institution of a criminal case must be sent to the Procuracy at the same level, and notify for the agency or the organization, which has sent the notice to the Investigating Body or the person who has given information of the disclosure to the Investigating Body.
The Investigating Body must take necessary methods to protect the person who has given information of the disclosure.
5. The Procuracy is responsible for supervising the handling disclosure, information of crime and request for institution of a criminal case of the Investigating Body.
Article 104. Decision on institution of a criminal
1. After evidence of an offence has been determined, the Investigating Body must decide to institute a criminal case. The head of the border security unit, custom service and forestry inspection, the sea

police, the head of other bodies of the people's police, people's army assigned to conduct some investigational activities, shall issue decision on institution of a criminal case under the circumstances as provided in article 111 of this Code.
The Procuracy shall issue the decision on institution of a criminal case in case the Procuracy rescinds the decision not to institute of bodies mentioned in this items and in case the Bench requests to institute a criminal case.
The Bench shall, if it has discovered a new offence or a new offender that require investigation, render decision on institution of a criminal case or request the Procuracy to institute a criminal case.
2. A decision on institution of a criminal case must clearly indicate the time, grounds for so doing, provisions of the Penal Code to be applied and name, position of the person issuing the decision.
3. Within a 24 hour- period since issuing the decision on institution of a criminal case, that decision issued by Procuracy must be submitted to the Investigating Body to conduct the investigation. A decision on institution of a criminal case and the other relevant documents relating to the institution of a criminal case of the Investigating Body, the border security unit, custom service and forestry inspection, the sea police, other bodies of the people's police, people's army assigned to conduct some investigational activities, must be sent to the Procuracy to supervise the institution; the decision on institution of a criminal case of the Bench must be sent to the Procuracy to consider and decide on investigation; the requests for investigation of the Bench must be sent to the Procuracy to consider, decide on institution.
Article 105. Institution of a criminal case upon request by victim
1. The criminal case concerning offences envisaged in Article 104, item 1; Article 105, item 1; Article 106, item 1; Article 108, item 1; Article 109, item 1; Article 111, item 1; Article 113, item 1; Article 121, item 1; Article 122, item 1; Article 131, item 1; Article 171, item 1 of the Penal Code shall be institute only at request of the victim, or of their legal representatives of the victim, in case they are juvenile, or the persons with the mental and physical defects.
2. In case the victim has withdrawn the request prior to opening date of the court session, the case must be suspended.
In case there is sufficient grounds to determine that the person requested the institution, then withdrawing their request, but being contrary to their will due to constraint or coercion, in spite of their withdrawing, the Investigating Body, the Procuracy or the Court may still continue the legal proceedings.
Any victim who has withdrawn his or her request has no right to request again; except for the case when they have withdrawn under constraint or coercion.
Article 106. Amendment and supplement to the decision on institution of a criminal case.
1. Where there exist grounds to determine that the institution is not correct with the criminal act occurred or there still exist other criminal acts, the Investigating Body or the Procuracy shall issue the decision on amendment and supplement to the decision on institution of a criminal case.
2. In case the Investigating Body decides to amend or supplement to the decision on institution of a criminal case, within a 24 hour-period since issuing the decision on amendment and supplement to decision on institution of a criminal case, that decision must be sent to the Procuracy.
In case the Procuracy decide to amend or supplement to the decision on institution of a criminal case, within a 24 hour-period since issuing the decision on amendment and supplement to the decision on institution of criminal case, that decision must be sent to Investigating Body to conduct investigation.
Article 107. Circumstances excluding institution of a criminal case.
A criminal case shall not be instituted should there exist one of the following circumstances:
There was no offence at all;
The act did not constitute an offence;
3. The person who has committed an act dangerous to the society was under the age to bear criminal responsibility;
4. The criminal act committed by a person has been judged by a sentences or such criminal act has been suspended by a decision provided that both sentence and decision have acquired legal force;
5. Time limit for prosecuting with criminal responsibility has expired;
6. The offender has been granted general amnesty;

7. The person committed an act dangerous to the society die except the reopening of the case is required against other person.

Article 108. Decision not to institute a criminal case

1. Where there exists one of the circumstances mentioned in Article 107 of this Code, the official having the right to institute criminal case shall render a decision not to institute a criminal case; if a decision on institution of the criminal case has already been made, that body must issue the decision to rescind the decision and notify reason thereof to the agency, organization and individual who have been given the disclosure or information; if the body deems the case should be handled by other means, it shall transfer the case to the agency or organizations concerned for settlement.

Within a 24 hour-period since issuing, the decision not to institute a criminal case, the decision to rescind the decision to institute a criminal case, and other relevant documents must be sent to the Procuracy.

2. The agencies, organizations, individuals who have given disclosure or information on crime, shall have the right to file complains with the decision not to institute a criminal case. The authorization and the procedures of handling with such complain are provided in Chapter XXXV of this Code.

Article 109. The power and responsibility of the Procuracy in institution of a criminal case

1. The Procuracy shall exercise the right to prosecution, supervise upon observance with the law in institution of a criminal case, to ensure all discovered criminal act must be instituted, to ensure the legality and reasonableness of the institution of a criminal case.

2. In case a decision on institution of a criminal case issued by Investigating Bodies, border security unit, custom service, forestry inspection, sea police and other bodies of the people's police, people's army assigned to conduct some investigational activities is groundless, the Procuracy shall issues the decision on rescission of the decision on institution of a criminal case; if the decision not to institute of those bodies is groundless, the Procuracy shall rescind that decision and render the decision on institution of a criminal case.

3. In respect to a decision on institution of a criminal case made by court is found groundless, the Procuracy shall file protest against such decision with the higher court.

CHAPTER VIII

GENERAL PROVISIONS ON INVESTIGATION

Article 110. Jurisdiction on investigation

1. Investigating Bodies of the people's police shall investigate all kind of crimes, except those fall within jurisdiction of the Investigating Bodies of armed forces and those come to jurisdiction of the Investigating Bodies under Supreme People's Procuracy.

2. The Investigating Bodies of armed forces shall investigate offences falling within jurisdiction of the military courts.

3. The Investigating Body of the Supreme People's Procuracy shall investigate a number of offences infringing judicial activities, of which the offenders are officials of judicial bodies.

4. The Investigating Bodies shall have the jurisdiction to investigate criminal cases involving offences occurred in their particular territory. In case the place of the offence is unknown, the jurisdiction to investigate thereof shall be vested in the Investigating Bodies where the offence has been discovered, or where the charged person domiciles or has been arrested.

The Investigating Bodies at the district level, the Investigating Bodies of the armed forces at the regional level conduct the investigation on the offences fall into the jurisdiction of the People's court at the district level, military court at regional level; the Investigating Bodies at the provincial level, or at the military zone level conduct investigation on the offences fall into the jurisdiction of the People's court at the provincial level or the People's court at the military zone level, or the criminal cases falling into the investigational jurisdiction of the Investigating Bodies at lower level but they take to investigate by their discretion. The Investigating Body at the central level conducts the investigation on the particular serious, complicated offences falling into the jurisdiction of the Investigating Body at the provincial level, or at the military zone level, but they take to investigate by their discretion.

5. The organization, powers of the Investigating Bodies are stipulated by the Standing Committee of the National Assembly.

Article 111. Border security unit, custom service, forestry inspection, sea police and other bodies of the people's police, people's army assigned to conduct some investigational activities shall be vested with certain powers to conduct some investigating activities

1. Upon discovery of a criminal act requiring to be prosecuted in their administrative area, the border security unit, custom service, forestry inspection and the sea police shall have the powers:

a) In respect of less serious offence, in flagrant delicto circumstance with obvious evidence and plain identity of the criminals, these bodies shall institute a criminal case and institute of a criminal case against the charged person, conduct investigation and transfer the case file thereof to a authorized Procuracy within 20 days from the date of making decision on institution of the case.

b) In respect of the serious, very serious, particularly serious offences or the less serious, but complicated offences, these bodies shall institute criminal case, and conduct preliminary investigation of the case and transfer the file thereof to a competent Investigating Body within 7 days from the date of making decision on institution of the case.

2. Bodies of people's police, people's army other than those Investigating Bodies mentioned in Article 110 of this Code, are authorized to conduct some investigational activities in exercising of their original duties. They shall if a fact of the offence has been discovered, have the right to institute the case, conduct preliminary investigation and transfer the case file to an appropriate Investigating Body within 7 days from the date of making decision on institution of the case.

3. When conducting some investigational activities, border security unit, custom service, forestry inspection, sea police and other bodies of the people's police, people's army assigned to conduct some investigational activities, within scope of their competence, must strictly comply with the principles, orders, legal proceeding procedures of the investigational activities as provided in this Code. The Procuracy shall have the responsibility to supervise the law observance in the investigating activities of these bodies.

4. Duties, powers of the border security unit, custom service, forestry inspection, sea police and other bodies of the people's police, people's army, assigned to conduct some investigational activities, are stipulated by the Standing Committee of the National Assembly.

Article 112. The Duties, powers of the Procuracy in exercising the right to prosecution in the investigating period

When exercising the right to prosecution in the investigating period, the Procuracy shall have the following duties and powers:

1. To institute a criminal case and to institute of a case against the charged person, to request the Investigating Bodies to institute or amend the decision on institution of a criminal case or the decision on institution of a criminal case against the charged person as provided in this Code;

2. To put forward investigating request and request the Investigating Bodies to conduct the investigation; to directly conduct a some investigational activities as provided in this Code;

3. To request the heads of the Investigating Bodies to replace investigators as provided by this Code; if the investigator acts shows signs of criminal offenses, they shall be criminal instituted;

4. To decide on the taking, amending and abolishing of measures of arrest, remand in custody, detention and other deterrent measures, approve or disapprove decisions of Investigating Bodies as provided in this Code;

5. To annul illegal decisions of Investigating Bodies;

6. To decide on the prosecution of the charged persons; decide on suspension or temporary suspension of a case.

Article 113. Duties and powers of Procuracy in supervising the investigation

When exercising the supervision the investigation, the Procuracy shall have the following duties and powers:

1. To supervise the institution, supervise the investigational and the compilation of case dossier of the Investigating Bodies;

2. To supervise the law observance of persons participating in legal proceeding;

3. To settle disputes over the investigational jurisdiction;

4. To request the Investigating Bodies to fix infringements in investigational activities; to request the Investigating Body to provide necessary documents relating to infringements of the investigators, to

request the head of the Investigating Bodies to strictly handle the case when his investigators committed law violations while performing their investigating activities.

5. To propose the concerned agencies, organizations and unites to apply measures to prevent crimes and law violations.

Article 114. The responsibility of the Investigating Body in implementing the requests and decisions of the Procuracy

The Investigating Bodies shall have the responsibility to execute the requests and decisions of the Procuracy. The Investigating Bodies must, even in case of disagreement, comply with the requests and decisions of the Procuracy as stipulated in Article 112, items 4, 5, 6 of this Code, but they preserve the right to file a proposal in writing to the Procuracy at the immediate higher level. Within a 20 day-period from the date of receiving the proposal of the Investigating Body, that higher Procuracy must directly consider, handle and notify the result thereof to the bodies which has filed the proposal.

Article 115. The responsibility of implementing the requests, decisions of the Investigating Bodies and Procuracy

The agencies, organizations and citizen shall have to strictly abide by the decisions and requests of the Investigating Bodies and the Procuracy.

Article 116. Transfer the case dossier to investigate under correct jurisdiction

With regard to a case does not fall into investigational jurisdiction of a particular Investigating Body, it shall request the Procuracy at the corresponding level to issue the decision on transferring the case dossier to the Investigating Body having that jurisdiction, to further investigate of the case. Within a three-day period since receiving the request of the Investigating Body, the Procuracy must issue the decision to transfer the case dossier.

The transfer of the case dossier to areas, other than within provinces or centrally-run cities or in military zones, shall be decided by the People's Procuracy at the provincial level or the military Procuracy at the military zone level.

Article 117. Join or separate of criminal case for the purpose of investigation

1. For the purpose of investigation, it is permissible for the Investigating Body to join several offenses committed by a person or an offenses committed by several persons, or in a criminal case involving the charged person and other person who harbors or suppresses a criminal prescribed in Article 313, 314 of the Penal Code.

2. Separation of a case of the Investigating Body shall be permitted only in the case of substantial necessity if investigation of all cases could not be completed in a short term provided that such separation of the cases shall not reversibly influence the definition of objective and comprehensive the truth of the case.

3. Within 24 hours since the date of issuing, the decision to join or separate of criminal case must be sent to the Procuracy of the corresponding level.

Article 118. Assignment of investigation

In case of necessity, the Investigating Body shall delegate another Investigating Body to conduct some investigating activities. A decision on delegation must clearly indicate the specific requests. Delegated Investigating Body shall have duty to fully perform the delegated activities at the period of time required.

Article 119. Time limit for investigation

1. Time limit for investigation shall not exceed two months for the less serious offence, three months for the serious offence, four months for the very serious offence and particular serious crime, counted from the date of institution of the criminal case to the date of completion of such investigation.

2.With regard to a complicated case requiring extension of period for investigation, the Investigating Body must, within ten days prior to expiration of the time limit, make a written request to the Procuracy for extension of such time limit.

Any extension in such circumstances shall be made pursuant to the following provisions:

a) In respect of the less serious offences, the time limit for investigation may be extended once, but not exceeding two months;

b) In respect of the serious offences, the time limit for investigation may be extended twice, the first extension does not exceeding three months, and the second one does not exceed two months;

c) In respect of the very serious offences, the time limit for investigation may be extended twice, each not exceeding four months;
d) In respect of the particular serious offences, the time limit for investigation may be extended three times, each not exceeding four months.
3. The power of Procuracy on extension of investigation is provided as followed:
a) In respect of the less serious offence, the People's Procuracy at the district level, the Military Procuracy at regional level may extend time limit for investigation. With regard to the case is handled at the provincial level or military-zone level, the People's Procuracy at the provincial level or the Military Procuracy at the military zone level may extend the time limit for investigation;
b) In respect of the serious offence, the People's Procuracy at the district level, the Military Procuracy at the regional military level may extend time limit for investigation for the first time and the second time. With regard to the case is handled at the provincial level or military-zone level, the People's Procuracy at the provincial level, the Military Procuracy at the military zone level may extend the time limit for investigation for the first time and the second time.
c) In respect of the very serious offence, the People's Procuracy at the district level, the Military Procuracy at regional military level may extend time limit for investigation for the first time and the People's Procuracy at the provincial level, the Military Procuracy at military zone level may extend time limit for the investigation for the second time. With regard to the case is handled at the provincial level or military-zone level, the People's Procuracy at the provincial level, the Military Procuracy at military zone level may extend the time limit for investigation for the first time and the second time.
d) In respect of the particular serious offence, the People's Procuracy at the provincial level, the Military Procuracy at military zone level may extend time limit for investigation for the first time and the second time; the Supreme People's Procuracy, the Central Military Procuracy extend the time limit for investigation for the third time.
4. In case the criminal case handled at the central level, the extension of the time limit of investigation fall into the competence of the Supreme People's Procuracy, the central Military Procuracy.
5. In respect of the particular serious offences, and the period of extension has been expired, but because of being very complicated of the case, that the investigation can not be completed, the General Procurator of the Supreme People's Procuracy may extend one more time, but not exceeding four months.
In respect to offences infringing the national security, the Procurator General of the Supreme People's Procuracy may extend one more time, but not exceeding four months.
6. When the time limit for the investigation has been expired, but the charged person can not be proved that he or she has committed the offence, the Investigating Body must issue the decision on suspension of the investigation.
Article 120. Time limit for detention while awaiting investigation
1. In case of the less serious offence, the period of detention while awaiting investigation shall not exceed two months for the less serious offences, three months for serious offences, four months for very serious offences and particular serious offences.
2. In respect to complicated case requiring a longer period for investigation, and having no ground to change or rescind the measure of detention, within ten days prior to expiration of the period of detention, the Investigating Body must file a request to the Procuracy for extension of the detention period.
The extension of the detention period provided as followed:
a) In case of less serious offence, the detention period may be extended once, but not exceeding one month;
b) In case of serious offence, the detention period may be extended twice, the first extension shall not exceed two months, and the second extension shall not exceed one month;
c) In case of very serious offence, the detention period may be extended twice, the first extension shall not exceed three months, and the second extension shall not exceed two month;
d) In case of particular serious offence, the detention period may be extended three times, but each shall not exceed one month.
3. The power of the Procuracy in extending of the remand in custody period provided as followed:

a) The People's Procuracy at the district level, Military Procuracy at the regional military level shall have the right to extend the detention period for the less serious crime, extend the detention period for the second time for the serious crime and very serious crime. With regard to the case is handled at the provincial level, or at military zone level, People's Procuracy at the provincial level, the Military Procuracy at military zone level may extend the detention period for the less serious crime, extend the detention period for the first time for the serious crime offence, very serious crime and particular serious crime;
b) With regard to the serious offence, in case the extended period of detention, which is provided in point a of this item, has been expired, but it is still impossible to complete the investigation and there is no grounds to change or abolish the detention measure, the People's Procuracy at the district level, Military Procuracy at the regional military level may extend the detention period for the second time. In respect of the serious offence, very serious offence, and particular serious offence, the People's Procuracy at the provincial level, Military Procuracy at the military zone level may extend the detention period for the second time.
4. With regard to case that has been taken to handle at the central level, the extension of the detention period fall into the competence of the Supreme People's Procuracy, the Central Military Procuracy.
5. In case of the particular serious offence, and the second period of detention extension as provided in point b, item 2 of this Article has been expired, the case is very complicated, and there is no ground to abolish the detention measure, the General Procurator of the Supreme People's Procuracy may extend the detention period for the third time.

In case of necessity, for the offence infringing the national security, the Procurator General of the Supreme People's Procuracy may extend the detention period one more time, but not exceeding four months.
6. During the detention period, the Investigating Body must, if it deemed that continuing detention is no longer necessary, shall timely request Procuracy to rescind the detention and release the person under the detention or, if necessary, adopt other deterrent measures.

Upon expiration of detention period, official issuing warrant of detention must release the detained person or, if necessary, take other deterrent measures.
Article 121. Time limits for renewal of investigation, additional investigation, reinvestigation
1.With regard to the renewal of investigation stipulated in Article 165 of this Code, time limits for additional investigation shall not exceed two months for less serious offence, serious offence and very serious offence; not exceed three months for the particular serious offence counting from the date of issuing of the decision on renewal of investigation until the date of the investigation completion.

In respect to the complicated cases requiring the extension of the time limit of investigation, the Investigating Body must, within ten days prior to expiration of the time limit, make a written request to the Procuracy for extension of such time limit. The extension of the time limit of the investigation is provided as followed:
a) In case of serious offence and the very serious offence, the time limit of the investigation may be extended once, but not exceeding two months;
b) In case of the particular serious offence, the time limit of the investigation may be extended once, but not exceeding three months.

The jurisdiction for extension of the time limit of the investigation for each kind of offence is provided in Article 119, item 3 of this Code.
2. In case the Procuracy remands of case file for additional investigation, the time limit of additional investigation shall not exceed two months; in case the court remands case file for additional investigation, the time limit of additional investigation shall not exceed one month. The Procuracy and the court can remand of case file for additional investigation, but not exceeding twice. The time limit of additional investigation shall be run from the date the Investigating Body receives the case dossier and the request for investigation.
3. With regard to the case dossier remanded for reinvestigation, the time limit for investigation and extension of investigation shall be made according to general procedure as provided in Article 119 of this Code.

The time limit for investigation shall be run from the date the Investigating Body receives the case dossier and the request for reinvestigation.

4. In case of renewal of investigation, additional investigation, reinvestigation, the Investigating Body shall have the right to take, change or abolish the deterrent measures as provided under this Code.

In case there is grounds according to the provisions of this Code, to take the detention measure, the detention period for the renewal of investigation, additional investigation shall not exceed time limit for renewal of investigation, additional investigation as provided in item 1, item 2 of this Article.

The detention period and the extension of the detention period in case of reinvestigation is made according to general procedure as provided in Article 120 of this Code.

Article 122. Handling of demands of person participating in criminal proceeding

Should there exists demands by person participate in proceeding related to the case, the Investigating Body, Procuracy, within their duty, shall handle such demands and notify those person of the out-come of the such handling. In case the investigating and Procuracy refuse to accept the foregoing demands, they shall made a decision thereon and specify the reasons thereof.

If case persons participating in criminal proceeding do not agree with the decision of the Investigating Body and Procuracy, they have the right to complaint. The complaint is solved as provided in Chapter XXXIV of this Code.

Article 123. Attendance of eyewitness

An eyewitness may be invited to attend the investigating activities in circumstances as provided for in this Code.

An eyewitness has duty to certify the content and results of the action undertaken by the investigator in the presence of the eyewitness. Such eyewitness may express his own opinion which shall be not in the protocol.

Article 124. Non-disclosure of investigation secrets

In case of necessity, the investigator, procurator must notify in advance for persons participating in criminal proceeding or the eyewitness, that these persons must not disclose any secret concerning the investigation. This notification must be noted in the protocol.

Investigator, procurator of persons participating in proceedings who disclose any secret concerning investigation shall, depend on each particular circumstances, be liable according to Article 263, 264, 286, 287, 327 and 328 of the Penal Code.

Article 125. Protocol on investigation

1. In conducting investigation, a protocol must be made pursuant to provision of Article 95 of this Code.

Person who make a protocol must read it out to persons participating in proceedings, advice them of their rights to make any addition or comments to the protocol. Such comments shall be put into the protocol. Persons participating in proceedings and person conducting investigation shall sign it conjointly.

2. In case the persons participating in proceedings refuse to sign a protocol, such refusal and reason thereof must be noted in the protocol.

3. Should persons participating in proceedings, due to their physical or mental defects or other reasons, are unable to sign the protocol, the reasons thereof must be clearly stated in the protocol with the certification by signature of person making the protocol and eyewitness.

Illiterate persons shall sign the protocol by pressing his (or her) finger-print on it.

CHAPTER X

Institution of a case against the charged person and interrogation of the charged person

Article 126. Institution of a case against the charged person

1. Where there exist grounds to believe that a person has committed a criminal act, the Investigating Body shall issue a decision on institution of a criminal case against the charged person.

2. Such decision shall clearly indicate: the name, place of issuance of the decision; the name, title of person issuing it; the name, date of birth, occupation family background of the charged person; the specific offence charged against the charged person, which provision of the Penal Code prescribes the offence in question; the time, place of commission and other circumstances of the offence.

If the charged person has been instituted for several and different offences, the decision on institution of a criminal case against the charged person must contain the specific offence separately and provisions of the Penal Code to be applied.

3. The Investigating Body, after instituting a case against the charged person, must take the photograph, make a record of the charged person's identity and put them into the case dossier.
4. Within a 24 hour-period since issuing the decision on institution of a criminal case against the charged person, the Investigating Body must send it to the Procuracy at the corresponding level for ratification. Within a 3 day-period from the date of receiving the decision on institution of a criminal case against the charged person, the Procuracy must issue the decision to ratify or rescind the decision on institution of a criminal case against the charged person, and promptly sent it to the Investigating Body.
5. In case of discovering the person who has been committed crime, but he has not been instituted, the Procuracy shall request the Investigating Body to issuing the decision on institution of a criminal case against the charged person.

After receiving the case dossier and the conclusion of investigation, the Procuracy shall issue the decision on institution of a criminal case against the charged person, if it discovers that there is still other persons committing crimes but he or she has not been instituted. Within 24 hour-period since issuing the decision on institution of a criminal case against the charged person, the Procuracy must send it to the Investigating Body to conduct investigation.
6. The Investigating Body must deliver promptly its decision on institution on criminal case against the charged person, or that decision of the People's Procuracy and advice him of his rights and obligations as provided in Article 49 of this Code. After receiving the decision to ratify or rescind the decision on institution of a criminal case against the charged person of the Procuracy, the investigating must deliver it promptly to the charged person. In doing such delivering or receiving, the protocol must be made as provided in Article 95 of this Code.

Article 127. Amendment or supplement to decision on institution of a case against the charged person

1.When conducting the investigation, if there is ground to determine that the criminal act is not constituted an offence, which has been instituted, or there is still other criminal acts, the Investigating Body or the Procuracy shall issue the decision on amendment or supplement to the decision on institution of a case against the charged person.
2. Within a 24 hour-period since issuing the decision on amendment or supplement to the decision on institution of a case against the charged person, the Investigating Body must send this decision and the relevant documents to the Procuracy at the corresponding level for ratification. Within a 3 day-period from the date of receiving decision on amendment or supplement to the decision on institution of a case against the charged person, the Procuracy must decide to ratify or rescind.
Within a 24-hour period, since the Procuracy issue decision on amendment or supplement to the decision on institution of a case against the charged person, it must send it to the Investigating Body to conduct investigation.
3. The Investigating Body must deliver to the charged person its decision on amendment or supplement to the decision on institution of a case against the charged person, or the decision on amendment or supplement to the decision on institution of a case against the charged person of the Procuracy, and advice him on his rights and obligations ad provided in Article 49 of this Code. After receiving the decision to ratify or rescind the decision on amendment or supplement to the decision on institution of a case against the charged person of the Procuracy, the investigating must deliver it promptly to the charged person. In such delivering or receiving, the protocol must be made as provided in Article 95 of this Code.

Article 128. Provisional suspension of current office of the charged person

The Investigating Body, Procuracy shall, in case they deem that if the charged person continues to serve his current office would obstacle the investigation, have the right to propose the employer of the charged person to provisionally suspend his current office. Within a 7 day-period from the date of receiving the proposal, proposed employer must respond the Investigating Body, Procuracy have made such proposal.

Article 129. Writ of summons upon the charged person

1. When summoning the charged person, the investigator must send a writ of summons. A writ of summons upon the charged person shall contain the name, dwelling of the charged person; the date, time, place of appearance, the person to meet with and liability to be imposed on him in case of failure to appear without legitimate reason.

2. A writ of summons upon the charged person shall be submitted to the local authority of commune, ward, town where the charged person domiciles or the agency, organization where the charged person works. The agency, organization shall take the responsibility to deliver promptly the writ of summons to the charged person.

Upon receiving of summons, the charged person must sign to confirm the receipt indicating the date, time at which he has received the writ. The sender of such writ of summon must send the portion of the writ of summon having the signature of the charged person to the body issuing such writ of summon. If the charged person fails to make such confirmation, a protocol on the failure of the receipt must be made and send to the body issuing such writ of summon. In case the charged person is absent, the writ may be given to an adult member of his family. The charged person who is under detention shall be summoned through supervision board of detention institution.

3. The charged person must appear upon the writ of summons. The investigator may issue the warrant of production in case the charged person absence without legitimate reasons or there exists signs to believe that he/she may escape.

4. In case of necessity, the procurators may summon the charged person. This kind of writ of summon must be implemented as provided under this provision.

Article 130. Production of the charged person who is not under detention

1. The warrant of production shall clearly indicate the date, time, place of issuance of the decision; the name, title of person issuing it; the name, date of birth, dwelling of the charged person; the offence of the charged person; the date, time, place of appearance.

2. The person executing the warrant of production must read out and explain to the charged person, and make a protocol on production as provided in Article 95 of this Code.

Production shall not be allowed at the nighttime.

Article 131. Interrogation of the charged person

1. Interrogation of the charged person must be conducted by investigator promptly after a decision on institution of a case against the charged person has been rendered. Interrogation of the charged person may be conducted at the place of conducting investigation of at dwelling of the charged person.

Before commencement of interrogation, investigator must read out the decision on institution of a case against the charged person and advice him of his rights and obligations as provided in Article 49 of this Code. These activities must be noted in the protocol thereon.

If a criminal case involves several the charged persons, investigators shall question each the charged person separately and not allowing them to contact with each other. A the charged person may be permitted to make his own testimony in writing.

2. Interrogation shall not be conducted at nighttime, except where interrogation can not be delayed, the reason thereof must be specified in a protocol.

3. In case of necessity, the procurator may directly conduct interrogation of the charged person. The interrogation must be conducted under provisions of this Article.

4. An investigator or procurator who obtain extorting confession by force statement by the charged person by means of coercion or corporal torture against the charged person shall be punished according to Article 299, 298 of the Penal Code.

Article 132. Protocol on interrogation of the charged person

1. A protocol on interrogation of the charged person must be made in accordance with Article 95 of this Code.

A protocol must be made against each time of interrogation. Such protocol must contain all statement given by the charged person, questions and answers thereto presented during the interrogation. Investigators and procurators are strictly prohibited from self-supplement, self-cutting, and self-amendment of the protocol on interrogation of the charged person.

2. After interrogation, investigator shall read out the protocol thereon or let the charged person to read it himself. If any supplement or amendment were made to the protocol, the charged person and the investigator shall certify it by their signature. If the protocol comprises of several pages, the charged person shall sign on each pages separately. In case the charged person makes a written statement by himself, the investigator and the charged person shall sign it conjointly.

Should the interrogation is to be recorded, such record, after the interrogation completed, shall be play back to the investigator and the charged person. The protocol must describe content of the interrogation, the charged person and the investigator shall certify it by their signature.

In respect to interrogation of the charged person that has been conducted with the attendance of an interpreter, the investigator must inform such interpreter of his rights and obligations, and at the same time advice the charged person of his right to request for alteration of the interpreter. The interpreter and the charged person shall sign each page of the protocol on interrogation.

3. With regard to interrogation conduct with the presence of the Defense Counsel, legal representatives of the charged person, the investigator shall inform them of their rights and obligation in the course of interrogation. The charged person, his Defense Counsel and legal representatives shall sign the protocol together.

In case the Defense Counsel participating the interrogation, the protocol must contain all questions of the Defense Counsel and the answers of the charged person.

4. In case the procurator conducts the interrogation of the charged person, the protocol shall be also made under provisions of this Article.

CHAPTER XI

OBTAINING OF TESTIMONY BY WITNESS, VICTIM, CONFRONTATION AND IDENTIFICATION

Article 133. Summons of witness (amended, supplemented).

When summoning of witness, the Investigating Body must send a writ of summons of witness. A writ of summons of witness must contain the name, dwelling of the witness; the date, times, and place of appearance. The person to meet with, liability imposable on the witness in case he fails to appear without legitimate reason.

2. A writ of summons shall be delivered in person to the witness of through local authority of commune, ward, town or agency, organization where the witness domiciles or works. The above mentioned bodies have duty to give the witness an opportunity to perform his obligation.

In any event, the delivery of the writ of summons must be confirmed by the signature of the person concerned.

3. In obtaining testimony of a witness under 16 years of age shall be delivered to his parents, legal representatives.

4. In case of necessity, the procurator may summon the witness. This writ of summon is conducted as provided under this provision.

Article 134. Production of the witness

1. In case the witness has been summoned by the Investigating Body, Procuracy, but he or she intentionally fails to come without legitimate reason and their absence shall cause obstacle for the investigation, prosecution, the body summoned the witness shall issue warrant of production.

2. The warrant of production shall clearly indicate the date, time, place of issuance of the decision; the name, title of person issuing it; the name, date of birth, dwelling of the witness; the date, time, place of appearance.

3. The person executing the warrant of production must read out and explain the warrant on the production, and make a protocol on production as provided under Article 95 of this Code.

4. Production of witness shall not be allowed at the nighttime.

Article 135. Obtaining of testimony by witness

1. Testimony of a witness shall be obtained at the place where the investigation be conducted or at the dwelling of the witness.

2. If a criminal case involves more than one witness, testimony of each of them must be obtained separately, not permitting them to contact with each other during the obtaining of testimony.

3. An investigator must, before obtaining of testimony, inform the witnesses of their rights and obligations. Such information must be put into a protocol.

4. Before interrogating of the witness on contain of the case, investigator shall ascertain the relationship of the witness with the charged person, the victim and other circumstances relating to personality of the witness. Prior to posing any question to the witness, the investigator shall request the witness to retell or rewrite any things concerning the case that came to his knowledge. Posing questions of suggesting nature shall not be allowed.

5. In obtaining testimony of a witness under 16 years of age, his parents, legal representatives or teacher must be invited to attend.
6. In case of necessity, the procurator may obtain the testimony by the witness. The obtaining the testimony by the witness must be conducted under provisions of this Article.

Article 136. Protocol on obtaining of testimony by witnesses

Protocol on obtaining of testimony by witnesses must be made according to Article 95 and Article 132 of this Code.

Article 137. Summons of victim, obtaining of testimony by victim

Summons of victim, obtaining of testimony by victim shall be conducted pursuant to Article 133, 135 and 136 of this Code.

Article 138. Confrontation

1. In case there exist any conflict in testimony given by two or more persons, the investigators shall conduct confrontation.
2. If the witness or victim attend the confrontation, the investigator, before any actions to be proceeded, must inform them of their liability in case they refuse, avoid to make testimony or in case they intentionally give false information. Such information must be entered into a protocol.
3. At the beginning of confrontation, the investigator shall ask about the relationship between the persons attending the confrontation, then question them about circumstances to be ascertained. The investigator may, after hearing statements of person participating in the confrontation, pose additional question to each person respectively.

The investigator may give an opportunity to the person participating in confrontation to pose questions each other; their questions and answers made in such situation must be recorded to the protocol.

Any previous testimony by person participating in confrontation could be repeated only after they have given all testimony during the confrontation.

4. Protocol on confrontation must be made pursuant to Article 95 and 132 of this Code.
5. In case of necessity, the procurator may conduct the confrontation. The confrontation must be made under provision of this Article.

Article 139. Identification

In case if circumstances so dictate, an investigator may invite persons or present object, photo to be identified by the witnesses, victim or the charged person.

Before identification takes place, investigator must ask the persons who shall make identification of facts, traces and particular fixtures whereby that person can identity.

2. Number of persons, objects, photos, to be identify must be at least three and their appearance must be similar to each other. This rule shall not apply to identification of corpse.

In special case, identification of persons may be conducted by identification of voices.

3. If the witness or victim act as identifying persons, the investigator must, before conducting such identification, inform them of their liability in case they refuse, avoid to give information or if intentionally give false information. Such information must be recorded in a protocol.
4. In conducting identification, the investigator shall not be allowed to pose question of suggesting nature. After an identifying persons has identified a certain person, object or photo among those presented for identification, the investigator shall order them to explain which traces, particular fixture made to confirm such person, object or photo.

Identification must be conducted with presence of eyewitness.

5. Protocol of identification must be made according to Article 95 and 132 of this Code. Such protocol must clearly indicate personality of the identifying person and identified person; particular fixture of the object, photo presented for identification; information and statement given by identifying person.

Chapter XII

Strip search, Arrest, Seizure, Inventory of Property

Article 140. Grounds for strip search, searching premises, things, correspondence and postal parcel

1. Strip search, searching of dwelling, places shall be conducted only if there exist grounds to believe that instruments, means to committing an offence, objects, objects obtained by committing offence,

documents relevant to the case or other things situated on the person, dwelling, places or other premises of the individual.

Searching the dwelling or place shall also be conducted in case of necessity to find a wanted person.

2. Where it is necessary to obtain documents or things relating to the case, correspondence, postal parcels and matters may be subjected to search.

Article 141. Power to issue a search warrant

1. The persons envisaged in Article 80, item 1 of this Code have the right to issue search warrant in all cases. A search warrant issued by the persons provided for in Article 80, item 1, point d of this Code must be approved by the chief prosecutor at corresponding level before it can be conducted.

2. In cases of urgency, the persons mentioned in Article 81, item 2 of this Code have the right to issue a search warrant. An official who has issued the warrant must, within 24 hour - period after completion of search, submit a written notice thereof to the Procuracy at corresponding level.

Article 142. Strip Search

1. At the beginning of strip warrant, a warrant thereof shall be read out and given to the person concerned for reading by himself; the person concerned and other persons present at the place of strip search must be informed of their rights and obligations.

The conducting person must order the person concerned to present things related to the case, in case the person refuses to obey such order, he should be subjected to strip search.

2. When strip search are conducted, the persons carrying out and the witnesses must be of the same sex as the person searched.

3. Strip search may take place without a warrant in case of arresting a person or in case there exists reasonable grounds to believe that person present at searched place hides on his body things needed to be seized.

Article 143. Search of premises

1. Search of premises, including search of dwelling and working place, shall be undertaken according to Articles 140, 141 and 142 of this code.

2. Search of dwelling and other premises must be proceeded in presence of the host or adult members of his family, representatives of local authority of commune or ward, town and his neighbors who act as eyewitnesses. In case the person concerned and other member of his family found to be intentionally absent, escaped and be away for a long time while the search must be done without delay, search must be conducted with eyewitness of the representatives of local authority and two of his neighbors.

3. Search of premises shall not be conducted at night time except where such a search can not be delayed provided that the reasons thereof shall be put into a record.

4. Search of working place of a person must be conducted with presence of that person except where such search can not be delayed but the reasons thereof must be specified in a record.

Search of working place must be conducted with presence of the representative of his employer.

5. During a search, the persons present may not leave the place at their discretion or discuss or otherwise communicate with each other or with other persons until the search completed.

Article 144. Seizure of correspondence, telegram, postal parcel and matters at post office

If it is necessary to seize correspondence, telegram, postal parcel and matters at the post office, the Head of the Investigating Body or his Deputy shall issue a warrant of seizure. Such warrant must be approved by the Chief prosecutor at corresponding level or his Deputy before being conducted, except where such seizure can not be delayed, provided that the reasons thereof must be clearly stated in a record and the seizure in such situation be promptly reported to the Procuracies at corresponding level. The officer carrying out a seizure warrant must inform persons in charge of the post office concerned before the seizure be conducted. The latter must assist the former in conducting the seizure.

Seizure of correspondence, telegram, postal parcel and matters must be conducted in the presence of the representatives of the post office who shall act as eyewitness and sign the record.

The office issuing a seizure warrant must notify the whose correspondence, telegram, postal parcel and other matters to be seized provided it would not delay the investigation, otherwise the persons must be noticed promptly after such delay no longer exists.

Article 145. Seizure of things or documents during search

During searching, the investigator may seize things that are competent evidences and documents directly related to the case. Those things that are prohibited to be kept and circulated shall be seized and promptly delivered to the competent agency. In case of necessity the seized articles are required to be put under seal or otherwise locked, this procedure must be conducted in presence of the owner or representatives of his family, representatives of local authority and other eyewitnesses.
Seizure of things, documents during a search must be recorded in a record. The record on seizure shall be made in four copies: one shall be given to the owner of seized things and documents; one shall be put in the case file; one shall be sent to the Procuracy at corresponding level and the last one to agency responsible for administration of those things and documents.

Article 146. Inventory of property

1. Inventory of property shall be applied only to the person charged with an offence punishable to confiscation of property or to fine prescribed for by the Penal Code as well as to persons who are liable for damages according to laws.
Competent officials mentioned in Article 80, item 1 of this code shall have the right to issue warrant of inventory. A warrant of inventory issued by officials referred to in Article 80, item 1, point d of this Code must be approved by the Procuracies at corresponding level before conducting.
2. Inventory shall be made in proportion to the amount to be confiscated or fined, or the amount sufficient to cover damages in question.
The property shall be assigned to owner or his relatives for preservation. If a person who has been so assigned transfers, exchanges, conceals or destroys the assigned property, he shall be punished according to article 310 of the Penal Code.
3. In conducting an inventory of property, the persons concerned or adult member of his family, representatives of local authority of commune or ward, town and his neighbors shall be caused to present. The official in charge must make a record indicating the name and conditions of each item of inventoried property. The record must be made according to Article 95 of this Code and read out to the persons concerned and the persons present at the scene who shall sign it. Complaints by the person concerned shall be included in the record with signature of his and of the official.
The record shall be made in three copies: one to be promptly delivered to the person concerned after completing the inventory; one to the Procuracy at the same level and the last to be inserted in the case file.
4. Competent officials mentioned in this article, item 1, shall, if he deems the inventory is no longer necessary, decide to annul the warrant of inventory immediately.

Article 147. Duty to preserve things, documents, correspondence, telegram, postal parcel and matters arrested, seized or sealed

Things, documents, correspondence, telegram, postal parcel and matters arrested, seized or sealed by virtue of provisions of Articles 75, 144 and 145 of this Code must be kept intact.
If a person who has been assigned to preserve properties breaks seals, uses, transfers, exchanges, conceals or destroys the properties shall be liable to criminal liability according to Article 310 of the Penal Code.

Article 148. Record on search, arrest or seizure of things, documents, correspondence, telegram, postal parcel and matters

In conducting search, seizure of the above mentioned materials, a record must be made in accordance with Article 95 and 125 of this Code.

Article 149. Duty of the person issuing and person conducting warrant of search, inventory of property, arrest, seizure of things, documents, correspondence, telegram, postal parcel and matters

Persons who illegally issued and conducted an warrant of search, inventory of property or seizure of things, documents, correspondences, telegrams, postal parcels and matters shall, depending on particular circumstance, be disciplined or punished according to provisions of the Penal Code and be subject to a civil liability for compensation in case of causing damages.

Chapter XIII

Site examination, examination of corpse, examination of traces of crime on body and investigative experiment

Article 150. Site examination

1. Investigators shall examine the scene where an offence has been committed or where an offence has been discovered to find out traces of crime, material evidences and ascertain elements important to the case.
2. Site examination may be conducted prior to initiation of a criminal case. Before conducting such an examination, the investigator must notify thereof to the Procuracy at corresponding level. The procurator shall be at present to supervise the examination. Eyewitness shall be caused to present at the examination; the charged, victim, witnesses may be allowed to or specialists may be invited to take part in.
3. At the conduct of examination, the investigator shall take photo, make diagram, describe the scene, measure, reproduce the scene, collect and examine at the scene traces of offence and things, documents related to the case. The outcome of such an examination must be clearly indicated in a record.
If it is impossible to immediately examine things and documents collected, they must be preserved, kept intact or sealed and transported to the site of the Investigating Body.
Article 151. Autopsy
The investigator shall conduct an autopsy with attendance of a forensic doctor and presence of eyewitness.
When the excavation of a grave is required, a decision thereof must be issued by the Head of the Investigating Body or his deputy and notice thereof must be given to the family of the dead person. The excavation of grave must be conducted with participation of a forensic doctor.
In case of necessity, forensic expert and eyewitness may be summoned to witness.
In any circumstance, before conducting an autopsy, a notice must be given to the Procuracy at corresponding level and the procurator shall be present to supervise such a conduct.
Article 152. Examination of traces of crime on person
1. The investigator shall examine body of the arrested, detained person, the charged, the victim and witness to discover traces of crime or other traces important to the case. If necessary, forensic examination should be required.
2. Person conducting body- examination and witness must be of the same sex with person to be examined. In case of necessity, the attendance of a doctor may be required.
Any action harming dignity or health of the examined person shall be strictly prohibited.
Article 153. Investigative experiment
1. To check and ascertain documents and other materials important to the case, the Investigating Body has the right to conduct an investigative experiment by having the scene reproduced, actions, circumstances and other details of certain fact replayed and conduct necessary activities of experiment. Where it is necessary, Investigating Body may measure, take photo and draw diagram.
2. In conducting an investigative experiment, eyewitness shall be required. In case of necessity, detained person, the charged, injured person and witness may be allowed to attend the experiment. Any action harming dignity or health of the participants in investigative experiment shall be prohibited.
3. When necessary, the Procuracy may directly undertake an investigative experiment. The investigative experiment shall be taken in accordance to the rules in this article.
Article 154. Record on site examination, autopsy, examination of traces of crime on person and investigative experiment
In conducting site examination, examination of corpse, examination of traces of crime on body and investigative experiment, a record thereof shall be made according to Articles 95 and 125 of this Code.
Article 155. Request for forensic examination
1. When forensic examination is required in respect to matters mentioned in item 3 of this Article or in case of necessity, the Head of the Investigating Body and his deputy, the chief Procurator and his deputy shall make an order requesting a forensic examination.
2. An order requesting forensic examination must clearly specify matters required to be examined; the name of the requested expert, or that of institution conducting forensic examination; right and duty of the expert shall be that provided for by Article 60 of this Code.
3. A forensic examination will be compulsory in the following circumstances:
a) Cause of death, the extent of injury damaged to health and for working ability.

b) The mental state of the charged, the accused in case of being suspicious of his ability to be subject to a criminal liability.
c) The mental state of witness or victim in case of being suspicious of their understanding and truthfully testifying competent evidences important to the case.
d) Age of the charged, the accused and the victim if that matter is significant to the case and if there is no truthful materials to ascertain their age or in case of being provided, it remains an suspicion thereof.
e) Poisons, drugs, radioactive materials and counterfeited notes.

Article 156. Conduction of forensic examination

1.Forensic examination may be carried out at a forensic institution or at the place where an investigation is conducted as soon as an order requesting forensic examination has been issued.
The investigator and the procurator shall have the right to attend a forensic examination provided that a notice thereof must be given in advance to the forensic expert.
2. In case a forensic examination cannot be accomplished timely by the deadline indicated in the order for such examination, the expert or the competent institution must notice in written, including grounds for such delay, to the body which has made the order.

Article 157. Conclusion of forensic examination

1. Conclusion of forensic examination must clearly indicate the time, place of conducting the forensic examination; name, education and professional qualification of the forensic expert and of the persons participating in the forensic examination; traces, things, documents and other objects which have been examined, methods used and answers to given questions with the reasons thereof.
2. In order to ascertain or make any addition to the conclusion, the body which has ordered such an examination may pose additional questions to the forensic expert concerning to major important facts or it may order to conduct another examination or to have it re - examined.

Article 158. Right of the charged person and of other persons participating criminal proceedings in relation to a conclusion of forensic examination

1.Upon completion of forensic examination, the charged and other persons participating criminal proceedings shall be informed of the conclusion of forensic examination if they so request.
They shall be entitled to take their own opinion on conclusion of the examination and to request for another examination or to have it re-examined. Such opinions and requests shall be written in a record.
2. In case the Investigating Body or the Procuracy refuse to accept their requests, the refusal and reasons thereof must be clearly specified and informed to them.

Article 159. Another forensic examination and forensic re- examination

1. Another forensic examination and forensic re- examination shall be conducted where the content of the conclusion of such examination is not clear or comprehensive or where the newly raised materials relate to the case's elements which have been concluded.
2. Re-examination must be conducted where there exists suspicion of the conclusion of the examination or adverse conclusions on the same issue examined. Re-examination must be held by different forensic expert.

3. Another forensic examination and forensic re- examination shall be conducted according to the same process as provided for a forensic examination.

Chapter XIV

Temporary suspension and termination of investigation

Article 160. Temporary suspension of investigation

1. Investigation may be temporarily suspended prior to expiration of time limits for investigation in case the charged person is under mental illness or other serious disease certified by the Commission of forensic experts. In case the charged cannot be clearly identified or his whereabouts is unknown, temporary suspension of investigation shall take place only upon expiration of time limits of investigation.

In case time limits for investigation are expired and the outcome of forensic examination has not yet been released, the investigation shall be temporary suspended and the examination shall be continued until getting the final result.

Where the case involves several charged persons and grounds for making suspension of investigation do not affect other charged persons, temporary suspension of investigation shall be applied only to the specific one.
Where the charged's whereabouts is uncertain, the Investigating Body must issue order for hunting down the wanted person prior to temporary suspension of investigation.
2. Investigating Body issuing decision on suspension of investigation must send a copy of the decision to the Procuracy at corresponding level and inform the charged or the victim of such decision.
Article 161. Hunting down the charged

Where the charged escapes or his whereabouts is unknown, the Head of the Investigating Body or his deputy must issue order for hunting down the wanted.

Order on hunting down the wanted must include the time and the place where the order has been issued; name and office status of the person issuing; name, age, dwelling and specifics for identification of the wanted; his photo attached and specific offence that has been initiated against the wanted.

The order on hunting down must be broadcasted through means of the mass media to enable the public to recognize, catch and detain the wanted.
Article 162. Termination of investigation
1.When an investigation is terminated the Investigating Body shall issue a report of conclusion of investigation.
2. Investigation shall be terminated when Investigating Body issue a report of conclusion of investigation requiring prosecution or deciding to suspend the investigation.
3. The report shall identify the time, name and office title of the person issuing the report with his signature.
4. Within 2 days since issuing the report, the Investigating Body must transfer the report which require to prosecute or the report attached with the decision to suspend the investigation and the case file as well to the Procuracy at corresponding level; the report requiring prosecution and the decision to suspend the investigation should also be given to the charged and their Defense Counsel.
Article 163. The decision requiring prosecution

1. Investigating Body shall, if there exist evidences enough to determine the commission of an offence and the offender, make a report of conclusion of investigation and request for prosecution.

2. The report of conclusion of investigation shall be accompanied by the list indicating the duration of the investigation, used coercive measures which indicate the period of the charged in detention center, evidences, civil lawsuits and measures applied to guarantee the execution of the fine, compensation and confiscation of property, if any.
Article 164. The decision on suspension of investigation
1. In case of suspension of investigation, the report of conclusion of investigation must describe in detail how the investigation has been taken, the reasons and grounds on which the suspension of investigation has based.
2. The Investigating Body shall decide to suspend an investigation in the following circumstances:
a) By virtue of provisions of Article 105 item 2 and 107 of this Code or Article 19, 25 and 69 item 2 of the Criminal Code;
b) By time limit for investigation expired and the charged involved has not been proved to be the person committing the offence.
3. Decision on suspension of investigation must specify the time, place of its issuance, reasons and grounds of suspension, annulments of coercive measures, return of articles seized if any and other matters concerned.
If there are several charged persons in the case and grounds for suspension of investigation does not affect other charged persons, investigation may be suspended responding to each one separately.
4. If considering the decision of the Investigating Body reasonable, within 15 days of being transferred, the Procuracy must return the case file to the Investigating Body. Otherwise, the chief Procurator or his deputy shall cancel that decision and order the Investigating Body to restore the investigation; If considering the evidences sufficient enough to prosecute an offender, the chief Procurator or his deputy

shall nullify the decision on suspension of investigation and file a decision on prosecution. The time limit for issuing the decision on prosecution will follow those provided in Article 166 of this code.

Article 165. Restoration of investigation

1. The Investigating Body shall, if there exist grounds to rescind decision on suspension or temporary suspension of investigation and within time limit of criminal liability, decide to restore investigation. That decision shall be sent to the Procuracy at corresponding level no later than 2 days.

2. If an investigation has been suspended by virtue of Article 107, point 5 and 6 of this Code and the charged does not consent and request the investigation should be re - conducted, the Investigating Body or the Procuracy at corresponding level shall decide to restore investigation.

Chapter XV

Decision on prosecution

Article 166. The period of prosecution

1. Since receiving the case file and the report of conclusion of investigation, within a period not exceeding 20 days for less serious crimes and serious crimes, 30 days for very serious crimes and particular serious crimes, the Procuracy must issue decision on one of the following circumstances:

a) Prosecute the charged before the court by a bill of indictment;

b) Return the case file for further investigation;

c) Suspension or temporary suspension of the case.

In case of necessity, the chief procurator may extend the above time limit but not exceeding 10 days for less serious crimes and serious crimes, 15 days for very serious crimes, 30 days for particular serious crimes.

Within 3 days of issuance of decision, the Procuracy must inform the charged and his Defense Counsel of the decision done. The Bill of indictment, decision on suspension or temporary suspension of investigation must be provided for the charged. The Defense Counsel shall be entitled to read the Bill of indictment, copy and make note the necessary things and lodge request.

2. After receiving the case file, the Procuracy shall have the power to decide whether to render, change or annul coercive measures. Detention period shall not exceed the period provided in this article, item 1.

3. Where the prosecution is decided, within 3 days of issuance of the bill of indictment, the Procuracy must send the case file attached to the bill of indictment to court.

4. In case the criminal case concerned is not of prosecutorial jurisdiction, the Procuracy must issue a decision to transfer the case to the right Procuracy.

Article 167. Bill of indictment

1. A bill of indictment must clearly specify the date, time, place of the offence, means, motivation, consequences of the offence and other essential elements; evidences incriminating the charged, aggravating and extenuating circumstances; personality of the charged and other factors important to the case.

The conclusion of the bill of indictment must clearly state name of crime and specific articles and sub - articles provided in the Penal Code to be applied.

2. Person issuing the bill of indictment must indicate the date of issuance of the bill, his name, office title and sign the bill.

Article 168. Return the case file for further investigation

In assessing the case file, the Procuracy shall return the case file to the Investigating Body for further investigation if found:

1. Lack of material evidences important to the case, which the Procuracy is unable to add to the file by itself;

2. There exist reasonable grounds to charge the person concerned with other offences or other persons should be found of complicity;

3. Grave violation of the criminal procedure is found.

Any matter required to be additionally investigated shall be clearly stated in the decision for further investigation.

Article 169. Suspension or temporary suspension of criminal case

1. The Procuracy shall render decision on suspension of the case if there exists one of grounds provided for by Article 105 item 2 and 107 of this Code or by Article 19, Article 25 and Article 69 item 2 of the Penal Code.
2. The Procuracy shall decide to temporarily suspend the case in the following circumstances:
a) The criminal suffers from mental disease or other serious disease certified by a health forensic commission.
b) If the criminal escapes and his whereabouts is unknown; in this case, the Procuracy shall request the Investigating Body to hunt down him.
3. If the case involves a number of criminals and grounds for suspension or temporary suspension of the case do not affect other charged persons, the decision on suspension or temporary suspension regarding to particular persons may be conducted.
4. The chief prosecutor at superior level has the power to cancel the unreasonable and illegal decisions on suspension of criminal case issued by the subordinates and can order the Procuracy at inferior level to decide on prosecution.

Part three

First instance of adjudication

Chapter XVI.

Jurisdiction

Article 170. Jurisdiction

1. The district people's Court and regional military courts shall have jurisdiction over the first trial of less serious crimes, serious crimes and very serious crimes, except the following offences:
a) Crimes of infringing upon the national security;
b) Crimes of breaking peace, crimes against the humanity and war crimes.
c) Crimes envisaged in Articles 93, 95, 96, 172, 216, 217, 218, 219, 221, 222, 223, 224, 225, 226, 263, 293, 294, 295, 296, 322, 323 of the Penal Code.
2. The provincial people’s court and zonal military courts shall have jurisdiction over the first trial of criminal cases not falling under jurisdiction of district people’s courts and regional military courts or of cases falling under jurisdiction of those courts which they takeover in their own discretion.

Article 171. Territorial jurisdiction

1. The territorial jurisdiction of a court shall be determined by the place of offence committed. In case the place of offence is unknown, a court where the investigation has been terminated shall have jurisdiction over the case.
2. In respect to an offence committed abroad by the accused to be tried in Vietnam, the provincial court of the last domicile of the accused shall have jurisdiction over the case. If such domicile is unidentified, the president of the Supreme People’s Court shall, depending on each circumstance, by mean of a decision, designate Hanoi City People’s Court or Ho Chi Minh City People’s Court to try that case.
In respect to an offence committed abroad by the accused to be tried falling under jurisdiction of military court, zonal military courts or military court of higher level shall have jurisdiction over the case by decision of the president of the Central Military Court.

Article 172. Jurisdiction over crimes committed on board of aircraft or vessel of the Socialist Republic of Vietnam while operating outside the air and sea boundaries of the Socialist Republic of Vietnam

Crimes committed on board of aircraft, vessel of the Socialist Republic of Vietnam while operating outside the air and sea boundaries of Vietnam shall fall under jurisdiction of a Vietnam’s court of the location of airport or seaport where such aircraft or vessel would make their first arrival or court where those aircraft, vessel have been registered.

Article 173. Jurisdiction over the accused committing several crimes that are of jurisdiction of court at different levels

When the accused commits several crimes and one of those fall under jurisdiction of a court at higher level, the court at higher level shall exercise jurisdiction over all of them conjointly.

Article 174. Transfer of case

When a case does not come within jurisdiction of a court, the court shall transfer the case to the court having jurisdiction over it. Transfer of case to a court located outside a province, city or central military zone shall be decided by the People’s court of the province or the regional military court.

The transfer of a case to other courts shall be made only if the case has not been tried. In this case, the transfer shall be decided by the president of the court. If a case falling within jurisdiction of a military court or a court at higher level has been taken to trial, it must, however, be transferred to a court having jurisdiction over such case. In this case, the transfer of the case shall be decided by the full bench.
The Procuracy at corresponding level, the accused and others concerned must be informed of the transfer within two days since the transfer is decided.
Article 175. Resolution in case of confusion of jurisdiction of courts
1. Any dispute over jurisdiction occurred shall be resolved by the president of a superior court.
2. Dispute over jurisdiction between the district people's court in different provinces or cities under central authority shall be resolved by the president of the court where investigation has been terminated.
Dispute over jurisdiction between the people's court and military court shall be resolved by the president of the Supreme People's Court.
Chapter XVII
Preparation of trial
Article 176. Time limits for preparation of trial
1. The presiding judge (the judge in charge) shall, after receiving the case file, has duty to examine the file; resolve complaints and requests made by the persons participating in criminal case and proceed other actions necessary for opening the court session.
2. Within 30 days, 45 days, 2 months and 3 moths with respect to less serious crimes, serious crimes, very serious crimes and particularly serious crimes respectively, counted from the date when the case file has been received, the judge must issue one of the following decisions:
a) The case shall be on trial;
b) Return the case for further investigation;
c) Suspend or temporarily suspend the case.
In respect to complicated cases, the president of the court may extend the time limit for preparation of trial but not exceeding 15 days for less serious crimes and serious crimes, 30 days for very serious crimes and particularly serious crimes.
After a decision for trial has been issued the court session must be opened within 15 days; or within 30 days, if there exist reasonable grounds.
With respect to the returned case for further investigation, the judge must issue one of the above decisions within 15 days after receiving back the case.
Article 177. Application, alteration and annulment of coercive measures
Upon receiving the case file, the presiding judge shall have the power to apply, alter or annul any coercive measures which have been taken. However, the application, alteration or annulment towards the accused remanded in custody shall be decided by the president or his deputy of the court.
Remand period for trial shall not exceed time limit for preparation of trial as stated in Article 176 of this Code.
In respect to the detained accused whose remand period expired on the day of opening court session, the court shall, if it deems that continuation of detention of the accused is in the interest of trial, order that accused to stay further in remand until conclusion of the trial.
Article 178. Content of decision bringing the case before court for trial
A decision bringing the case for trial must specify:
1. Name, date, and place of birth, occupation, place of residence of the accused;
2. Name of offence and provisions of the Penal Code cited by the Procuracy in conjunction with the criminal act committed by the accused;
3. Date and time, place of opening the court session;
4. Public trial or closed trial;
5. Name of the judges, assessor, secretary taken part in the court session; name of the alternate judges and assessor, if any.
6. Name of the procurators participating the trial; names of the alternate prosecutor, if any.
7. Name of the Defense Counsel, if any;

8. Name of the interpreter, if any;
9. Name of the persons summoned to the court session for interrogation;
10. Material evidences required to be examined in the court session.

Article 179. Return of the case file for further investigation

1. A judge shall, by means of a decision, return the case file to the Procuracy for further investigation in the following circumstances:

a) When it is necessary to make further examination of evidences important to the case which are impossible to be added at the trial;

b) When there exist reasonable grounds to believe that the accused has committed another offence or when there are co-offenders in the case;

c) Where it is found that the proceedings have been conducted in serious violation of the procedure laws.

The matters required to be further examined must be clearly stated in the decision.

2. If the outcome of the further investigation results in suspension of the case, the Procuracy shall issue a decision on suspension of the case and notify thereof to the court.

Should it is impossible for the Procuracy to satisfy the matters as requested by the court and the Procuracy decide to keep its initial decision on prosecution, the court shall continue to carry out for the trial.

Article 180. Decision on temporary or complete suspension of case

A judge shall, by means of a decision, temporarily suspend a case on the grounds prescribed in Article 160; or completely suspend the case on one of the grounds mentioned in Article 105, item 2 and Article 107 items 3, 4, 5, 6 and 7 of this Code or prior to the opening date of the trial, the Procuracy drop out the decision on prosecution.

If there are several accused in the case and grounds for temporary or complete suspension of the case do not affect the others, the decision on suspension may be applied to each accused.

The decision on suspension of a case must contain matters as stated in Article 164 item 3 of this Code.

Article 181. Withdrawal of decision on prosecution by the Procuracy

The chief prosecutor or his deputy shall, should it deemed the grounds envisaged in Article 107 of this Code exist or there exist grounds to exempt the accused from criminal liability as provided in Article 19, 25 and 69 item 2 of the criminal code, withdraw the decision on prosecution before opening the court session and request the court to suspend the case in question.

Article 182. Service of court decisions

1. Decision bringing the case for trial shall be served upon the accused, his legal representative and Defense Counsel not later than ten days before the opening date of the court session.

In case the trial has been conducted in absence of the accused, the decision bringing the case for trial and the bill of indictment shall be served on the Defense Counsel or representative of the accused; the decision bringing the case for trial must also be posted up at the office of the local authority of commune or town, ward of the last working place or domicile of the accused.

2. Court decision on temporary or complete suspension of the case shall be served upon the accused, his Defense Counsel, the victim, legal representative of the accused; the other persons participating in criminal proceedings shall be given a written notice thereof.

3. The decision bringing the case for trial, decision on temporary or complete suspension of the case shall also be given to the Procuracy at corresponding level.

4. The application, alteration or annulment of coercive measures must be informed to the charged, the accused, the Procuracy at corresponding level and the detention center where the charged, the accused remanded.

Article 183. Summons of persons to be questioned in court session

The judge shall, on the basis of the decision bringing the case for trial, summon persons who will be subjected to interrogation at trial.

Chapter XVIII

General provisions of proceedings at trial

Article 184. Direct, oral and consecutive trial

1. The court must directly identify the facts of the case by asking and listening statements given by the accused, victim, civil plaintiff, civil defendant, person having interests and obligations in the case, witnesses, expert witness, and shall examine material evidences and listen to the procurator and the Defense Counsel statements. A judgment shall be rendered only on the basis of those evidences that have been examined at trial.
2. The trial must be held continuously except break times.
Article 185. Composition of the bench at first instance
A bench at first instance shall consist of a judge and two assessors. In respect to serious and complicated cases, the bench may be two judges and three assessors.
With respect to a case where the accused charged with an offence that may result in death penalty as the severest punishment probable to such offence, the bench shall consist of two judges and three assessors.
The presiding judge shall conduct the trial and keep order in the court room.
Article 186. Alteration of members of the bench in special circumstances
1. A member of the bench must hear the case from beginning to the end.
2. If, during the trial, a judge or a assessor is unable to continue his duty, the court may continue hearing of the case with alternate judge or assessor. Only those judges or assessor who appear at trial from beginning shall be allowed to participate in the trial. In case there are two judges at trial and the presiding judge cannot continue hearing, the last one shall act as the presiding judge to conduct the trial. The alternate judge shall be designated in the bench.
3. In case there is no alternate judge or assessor available for making the replacement or in case there is no judge for altering the presiding judge pursuant to the above provisions, the case must be re - tried from the beginning.
Article 187. Presence of the accused in court session
1. The accused must be present at the court forum upon summons made by court; if the accused fails to be present without reasonable excuses, he shall be apprehended to the court; otherwise, the court session shall be delayed.
If the accused is under mental illness or other serious diseases, the bench shall decide the trial to be pended until the accused's health has been recovered.
If the accused escaped, the bench shall order the case be temporarily suspended and request the investigative body for hunting down the wanted.
2. A court may hear the case without presence of the accused in the following circumstances:
a) The accused have escaped and the action for hunting down him has not been succeeded;
b) The accused is being abroad and it is impossible to summon him to the court session;
c) If the absence of the accused would not cause any obstacle to the hearing of the case and he has been provided the summons in conformity with law.
Article 188. Supervision over the accused present at court session
1. When the accused remanded in custody appears at the court session, he shall be allowed to meet with his Defense Counsel only. Otherwise, he shall have the permission of the presiding judge.
2. The accused who is not remanded in custody must be present at the court session during trial.
Article 189. Presence of Procurator
1. A procurator of the Procuracy at corresponding level must participate in the court session. With respect to serious and complicated case, two procurators may concurrently join the court session.
In case of necessity, an alternate procurator may be allowed.
2. In case of absence of the procurator or the procurator is under the replacement without an alternate prosecutor available, the bench must postpone the trial and immediately notify thereof to the Procuracy at corresponding level.
Article 190. Presence of Defense Counsel
The Defense Counsel is under obligation to participate in the court session. If the Defense Counsel is absent with the defense statement submitted to the court in advance, the court session shall still be opened.
When it is compulsory to have the presence of the Defense Counsel as mentioned in Article 57 item 2 of this Code, the bench must postpone the court session if the Defense Counsel is absent.

Article 191. Presence of victim, civil plaintiff, civil defendant, persons having interests and obligations in the case or their legal representatives

1. In case the victim, civil plaintiff, civil defendant, persons having interests and obligations in the case or their legal representatives are absent, the bench shall, depending on each circumstance, decide whether to postpone or conduct the trial.

2. If the bench considers that the absence of the victim, civil plaintiff or civil defendant causes obstacles only to settlement of claim for damages, it may rule that their claims shall be settled subsequently pursuant to civil procedure and continue the trial.

Article 192. Presence of witness

A witness is required to appear at court session to testify facts of the case. If an absent witness has already submitted his statement to the Investigating Body , the presiding judge shall read out such statement. If a witness of important facts is absent, the bench shall, depending on each circumstance, decide to whether postpose or conduct further the trial.

Article 193. Presence of expert witness.

1. An expert witness shall participate in the court session upon summons made by court

2. Should an expert witness is absent, the bench shall, depending on particular circumstance, decide to whether postpone or conduct the trial.

Article 194. Period of postponement of court session

If a court session has been postponed by virtue of Articles 45, 46, 47, 187, 189, 190, 191 and 193 of this Code, the period for postponement of court session acting as a court of first instance shall not exceed 30 days from the date of issuance of decision on postponement.

Article 195. Withdrawal of prosecutorial decision or charged of a milder offence made by prosecutor at court session

At a court session, after interrogation process, the procurator may withdraw a whole or part of the initial bill of indictment or charge the accused with a milder offence, however the bench must fully adjudicate the case's aspects.

Article 196. Limitation of adjudication

A court shall only try the accused and hear acts of specific offence prosecuted by the Procuracy and which have been decided by the court for trial.

The court can apply a different item in the same Article prosecuted by the Procuracy or a different Article which has the level of punishment similar or milder than those prosecuted by the Procuracy to the accused.

Article 197. Internal rules of court session

1. Before the commencement of a court session, the court secretary must make known the internal rules of the court session.

2. All persons in the court room must respect the bench, stay in order and obey directions given to by the presiding judge.

3. All persons in the court room must stand up when the bench enters the court room. Only persons who have been summoned to the court for giving statement can be entitled to make their statements upon permission of the presiding judge. A person making statement must keep his standing while being questioned except when the presiding judge permits that person to make statement sitting due to his health condition.

4. Persons under 16 years of age shall not be allowed to have access to the court room unless they have been summoned to court for giving statements.

Article 198. Measures taken against persons violating orders of court session

A person who violates order of a court session shall, depending on particular circumstance, be warned with a notice, be fined or be expelled from the court room by force or arrested by the order of the presiding judge.

The police shall have duty to protect the court session and exercise order of the presiding court concerning expulsion from the court room and apprehension of the violator.

Article 199. Making judgment and other decision of the court

1. A court judgment shall determine whether the accused has committed the offence charged, apply punishment and other judicial measures. The judgment must be deliberated and passed in a decision - making room.
2. A decision on alteration of a member of the bench, procurator, expert witness, interpreter, court secretary; on transfer of a case, request for further investigation, temporary suspension or suspension of a case and on detention or release of the accused, must be deliberated and passed in the making – decision room and be made in writing as well.
3. A decision on other matters which have been discussed and passed by the bench in the making - decision room shall not necessarily be made in writing, but must be shown in the record of the court session.

Article 200. Record of the court session

1. A record of court session must clearly state the date, time, place of the court session and all things happened in the court session from commencement of trial to pronouncement of the judgment.
2. Questions and answers thereto must be recorded in the record.
3. After conclusion of the court session, the presiding judge must check the record and co-sign it with the court secretary.
4. The accused, Defense Counsel, victim, civil plaintiff, civil defendant, persons having interest and obligation concerning the case or their representative shall have access to the record and request for amendment, supplement to the record and make confirmation thereof by their signature.

CHAPTER XIX

OPENING PROCEDURE OF COURT SESSION

Article 201. Opening procedure of court session

At the beginning of a court session, the presiding judge shall read aloud decision on bringing the case for trial.

After hearing the list of persons present upon summons reported by the court secretary, the presiding judge shall check identification of the listed persons and inform them of their right and obligation at the court session.

In case the accused has not been given the bill of indictment as provided in Article 49 item 2 and the decision bringing the case before court for trial stipulated in Article 182 item 1 of this Code and if the accused requests, the bench must postpone the court session.

Article 202. Settlement of request for replacing judge, assessor, procurator, expert witness, interpreter and court secretary

Procurator and persons participating in proceedings must be asked whether they wish challenge of judge, assessor, procurator, expert witness, interpreter and court secretary. If any person make a motion for the challenge, the bench shall consider and decide the question.

Article 203. Explanation of rights and duties of interpreter and expert witness

If an interpreter and expert witness participate in the court session, the presiding judge shall introduce their name, occupation or office title and clearly explain them of their rights and duties. These persons must undertake commitment to fulfill their duties.

Article 204. Explanation of obligations and segregation of witness

1. After asking of name, occupation, permanent residence of witnesses, the presiding judge shall inform their procedural obligations. The witness must undertake commitment not to give fault testimony. Juvenile witness shall not be required to make such commitment.
2. Before the witness being asked of the case, the presiding judge may adopt measures so that different witnesses are not able to hear testimony of each other or communicate with persons concerned. In case the testimony of the accused and that of the witness would affect each other, the presiding judge may segregate the accused from the witness before questioning the witness.

Article 205. Settlement of request for examination of evidence and postpone of court session due to absence of person concerned

The presiding judge must ask procurator and person participating in proceedings whether they request more witness to be summoned or more material evidence and document to be examined. If any of persons need to participate in proceedings is absent, the presiding judge must ask whether anyone of

the rest requests for postpone of the court session. In case such request has been made, the bench shall consider and decide the question.

Chapter XX

Interrogation procedure at court session

Article 206. Reading of the bill of indictment

Before interrogating, procurator shall read aloud the indictment and state additional opinions if any.

Article 207. Process of interrogation

1. The bench must examine all circumstances of each fact and each offence in the case in reasonable order of interrogation.
2. When interrogating each person, the presiding judge shall ask first then assessors, thereafter procurator, Defense Counsel and attorney of other persons concerned. Persons participating in the court session shall also have the right to request the presiding judge to put more questions about issues required to clarify. The expert witness shall be asked about matters relating to forensic examination.
3. During interrogation, the bench shall examine material evidences of the case.

Article 208. Pronouncement of statement given at Investigating Body

1. If interrogated persons are present at the court session, the bench and procurator shall not be allowed to remind or pronounce their statement given at the Investigating Body before they give statement on the fact of the case in the court session.
2. The statement given at the Investigating Body may be pronounced only in the following circumstances:

a) Statements of interrogated person given at court session are inconsistent with that statements given by him at the Investigating Body.

b) Interrogated person refuses to give statement at court session.

c) Persons need to be interrogated is absent or have died.

Article 209. Interrogation of the accused

1. The bench must ask each accused separately. If statements given by an accused may have influence on those given by another accused, the presiding judge must isolate them. In such case, the isolated accused shall be informed of statement given by the other and have the right to pose question to those accused.
2. The accused shall express his own opinion on the bill of indictment and facts of the case. The bench shall make further questions concerning statements which have been insufficiently and conflictly presented by the accused.
3. The procurator interrogates the accused about the elements related to both the incriminating and exonerating circumstances. The Defense Counsel pose questions related to defense elements. The counsel of other persons concerned ask questions relevant to their clients' interests. Others participating in proceedings may request the presiding judge to pose more question about elements affecting their interests.
4. If the accused refuse to give answer to questions posed, the bench shall continue with its questions to other persons and examination of material evidence.

Article 210. Interrogation of victim, civil plaintiffs, civil defendants, persons having interests and obligations relevant to the case or their legal representatives

Victims, civil plaintiffs, civil defendants and persons having interests and obligations concerning the case or their legal representatives shall give statements on circumstances of the case related to them. After that, the bench, procurator, the Defense Counsel and the attorney of other persons concerned shall make further questions concerning statements which have been insufficiently and conflictly presented by them.

Article 211. Interrogation of witness

1. The bench must ask each witness separately and must not allow other witness to be aware of the content of interrogation of other witness.
2. While interrogating the witness, the bench must ask about his relationship with the accused and other persons concerned in the case. The presiding judge shall ask them to state facts of the case which they have obtained knowledge of, then make further questions concerning statement which have been

insufficiently and conflictly presented by them. The procurator, the Defense Counsel and the counsel of other persons concerned shall make further questions to the witness.
3. In case of juvenile witness, the presiding judge may request his parents, sponsors or teachers to assist in interrogating.
4. After accomplishing their statement, the witness shall stay at the court room in case of being further interrogated.
5. Where necessary to ensure safety of witness and their relatives, the bench must decide whether to release their identity information and make others at court session unseen of their appearance.
Article 212. Examination of material evidence
1. Material evidence, photo, or record on material evidence shall be examined at the court session. Where necessary, the bench shall, in corporation with prosecutors and persons participating in the court session, examine material evidences at the place where they situated if such material evidences are unable to be brought to the court session. A record must be written as provided in Article 95 of this code when conducting the examination at scene.
2. Procurator, Defense Counsel and persons participating in the court session shall have the right to state their remarks on the material evidences. The bench may ask them for further details of matter relating to the material evidences.
Article 213. Examination on the scene
Where necessary, the bench may, incorporation with procurator and persons participating in the court session, examine the place of the offence or other places relating to the case. Procurator, Defense Counsel and persons participating in court session shall have the right to state their remarks on the place of the offence or other places relating to the case.
The bench may ask them for further details of matters relating to those places.
The examination on the scene must be reported in a record pursuant to general procedure.
Article 214. Presentation, pronouncement of documents of the case and remarks or reports made by institutions, organizations
Remarks, reports made by institutions or organizations concerning facts of the case shall be presented by representatives of the institutions, organizations; in case such representatives do not attend the court session, the bench shall pronounce their remarks or reports at the court session.
Documents available in the case file or newly submitted at stage of interrogation must be pronounced at the court session.
Procurators, the accused, Defense Counsel and persons participating in the court session shall have the right to make comment on the documents and make further questions on relevant matters.
Article 215. Interrogation of expert witness
1. Expert witness shall present his conclusion related to matters subject to forensic examination.
2. At the court session, the expert witness shall have the right to give further explanation, supplement to his initial conclusion.
3. Should expert witness be absent, the presiding judge shall pronounce the expert's conclusion.
4. Procurator, Defense Counsel and persons participating in the court session shall have the right to give comment on the expert conclusion, give questions on uncertain or contrary matters in the expert conclusion.
5. The bench shall, if it deems appropriate, order further examination or re-examination to be conducted.
Article 216. Conclusion of interrogation
The presiding judge shall, when he considers that all facts of the case have been fully examined, ask procurators, the accused, Defense Counsel and other persons participating in court session whether they request for interrogation of any more matter of the case. If there exist such request and it is deemed necessary, the presiding judge shall decide to continue interrogation.
Chapter XXI
Arguing at trial
Article 217. Order of presentation of argument
1. After conclusion of interrogating at the court session, procurator shall present the accusation, request for adjudicating the accused with a whole or a part of the bill of indictment or charging the accused with

a milder offence; if the prosecutors deem that evidences are not sufficient to convict the accused, he shall drop the case and request the bench for declaring the accused not guilty.
The procurators' accusation must be based on the documents, evidences already examined at trial and on the presentations of the accused, the Defense Counsel, the counsel of others and others participating in the court session.
2. The accused shall present his defense. If the accused has a Defense Counsel, such Defense Counsel shall present the defense. The accused shall have the right to make any addition to his defense.
3. Victims, civil plaintiff, civil defendants and persons having interests and obligation relating to the case or their representatives may present their statement to protect their interests. If such persons have their counsel, their counsel may present and add to their clients' statements.
Article 218. Arguing
The accused, his Defense Counsel and others participating in proceedings have the right to present their views on the prosecutors' accusation and give their requests. The procurator must respond to each of those persons' points.
Persons participating in arguing process shall have the right to respond to statement of other persons.
The presiding judge shall not limit the time of arguing but led them have chance to exhaustively express their opinions, however, he has the right to set aside those statements irrelevant to the case.
The presiding judge has the right to ask the procurator to respond to the statements of the Defense Counsel or of others participating in proceedings in case those statements have not been argued by the procurator.
Article 219. Return of interrogation
If, during arguing process, it appears that evidence must be further examined, the bench may cause the interrogation to be reopened again. The arguing process must be continued upon conclusion of this interrogation.
Article 220. Final statements of the accused
When persons participating in arguing make no more statement, the presiding judge shall pronounce the arguing process to be concluded.
The accused shall be entitled to say the last words. Posing any question shall not be permitted during the time when the accused speaks. The bench may order the accused not to state matters irrelevant to the case, but shall not impose time limit on him.
If, during speaking, the accused present new facts important to the case, the bench must decide to re-open the interrogation.
Article 221. Consideration on drop of prosecution or prosecuting the milder offence
1. Withdrawing a part of decision on prosecution or prosecuting the accused with a milder offence notwithstanding, the bench shall continue the trial.
2. In case the procurator withdraws the whole decision on prosecution, the bench shall, before deliberation of judgment takes place, request persons participating in the proceedings present at the court session to make statement on such withdrawal.
Chapter XXII
Deliberation and pronouncement of judgment
Article 222. Deliberation of judgment
1. The right to render a judgment is vested exclusively in judge and assessor. Members of the bench must determine all matters of a case by voting each matter separately by majority. The judge shall vote lastly. A person holding minority view shall have the right to state his own opinion in writing which shall be put into the case file.
2. In case the whole decision on prosecution has been withdrawn by the prosecutors, the bench shall, however, resolve matters of the case pursuant to the item 1 of this Article. If there exist grounds showing the accused is not guilty, the bench shall pronounce him innocent. The bench shall, if it deems the withdrawal of the decision on prosecution has been made on unreasonable grounds, decide to temporarily suspending the case and file a petition to the higher Procuracy.
3. In the process of deliberating judgment, the bench must base on evidences and documents which have been examined at the court session through fully assessing evidences and opinions presented by the procurators, the accused and others participating at trial.

4. The deliberation of judgment reflecting opinions deliberated and the final conclusion made by the bench shall be put in a record. That record must be co-signed by the members of the bench at the chamber where it is made before pronouncing the judgment.

Article 223. Reopening of interrogation and arguing

If the bench finds, during the process of deliberating judgment, that some facts of the case have not yet been examined or insufficiently examined, it shall decide to reopen interrogation and arguing.

Article 224. Content of judgment

1. The court shall render a judgment in the name of the Socialist Republic of Vietnam.

2. The sentence must clearly states: the date, time and place of the court session, the names of members of the bench and of the court secretary; the name of procurators; the name, date of birth, location of residence, occupation, education, social status and criminal record of the accused; the date when the accused started being remanded in custody and detention; the name, age, occupation, place of birth, place of residence of representative of the accused; the name of Defense Counsel; the name, age, occupation, place of residence of victim, civil plaintiffs, civil defendants, persons having interests and obligations concerning the case and their legal representatives and their counsel as well.

3. The sentence must state description of how the accused has committed the offence, analyze incriminating and exculpating evidences, determine whether the accused has committed an offence and if he has, which specific offence he has committed according to the Penal Code, aggravating and extenuating circumstances and which kind of sanction applied upon the accused; if the accused has not committed an offence, the sentence must clearly contain grounds proving the accused not guilty and institution of dignity, interests and obligations of the accused must be made. The last part of the sentence must contain decisions made by the court and the right to lodge appeal against the judgment.

Article 225. Decision requesting correction of errors in administration work

1. While rendering the judgment, the court shall simultaneously issue decisions requesting agencies, organizations concerned to take measures necessary to clean up causes and conditions led to violation of crime in those agencies, organizations. Those agencies, organizations must, within 30 days from the date of receiving the decision, notify the court of the measures taken.

2. Such decisions may be read out in the court session simultaneously with the sentence or sent only to agencies, organizations concerned.

Article 226. Pronouncement of sentence

When a sentence is being pronounced, all persons present at the court room must stand up. The presiding judge shall read aloud the sentence and after so doing, he may give further explanation on execution of the sentence and on the right to appeal.

If the accused is not versed in Vietnamese language, interpreter shall, after pronouncement of the sentence, read the whole sentence in a language in which the accused is versed.

Article 227. Release of the accused

The bench must proclaim the release of the accused under remand in custody without delay at court session unless the accused is not subject to be detained for another offence in the following circumstances:

1. The accused is not guilty;

2. The accused is entitled to exempt from criminal liability or from sanction;

3. The accused is sentenced to a sanction rather than imprisonment;

4. The accused is sentenced to imprisonment but is entitled to serving sentence outside prison with conditions.

5. The accused has been sentenced to imprisonment for term as long as detention period imposed upon him or shorter.

Article 228. Arresting the accused for detention after pronouncement of sentence

1. If the imprisonment sentence is given to the accused who has been remanded in custody and the period of detention is expired at the final day of the trial, the court must order him to remand further in custody to serve the execution of sentence unless the circumstances provided in Article 227, item 4 and 5 exist otherwise.

2. If the imprisonment sentence is given to the accused who has not been remanded in custody, he shall be arrested and detained for serving the sentence only after the judgment come into effect. However,

the court may decide that the accused shall be promptly apprehended if there exist reasonable grounds that he may escape or further commit crime.
3. The period of detention which the court can imposed on the accused as mentioned in item 1 and 2 of this code are 45 days since the day of pronouncement of sentence.
In case the accused is sentenced to a death penalty, the bench shall decide to keep him or her further in custody so as to serve the execution of sentence.
Article 229. Service judgment
The court must, within 10 days since the date of pronouncement of sentence, deliver copies of judgment to the accused, the Procuracy at corresponding level, the Defense Counsel, to the accused who has been sentenced in his absence and inform thereof the local authority of commune or town, ward or agencies, organizations where the accused domiciles or works.
In case the accused has been tried in his absence as stipulated in Article 187, item 2, point a or b of this Code, within the period mentioned in the above paragraph, a copy of the judgment must be posted up at the office of local authority of commune or town, ward where last known domicile or working place of the accused.
Victim, civil plaintiffs, civil defendants, persons having interests and obligations concerning the case or their legal representatives shall have the right to request the court to give them a brief note of the judgment or a copy thereof.
Part four
Review of judgments and decisions which have not acquired legal force through appellate procedure
Chapter XXIII
Nature of appeal and right to appeal, protest
Article 230. Nature of appellate hearing
Appellate hearing is that an immediate higher Court reviews case or reviews decision of the first instance and such judgment, decision of that case has not acquired legal force, which has been appealed or protested.
Article 231. Persons having the right to appeal
The accused, victim, their legal representative shall have the right to appeal against judgment or decision of the first instance.
Defense Counsel shall have the right to appeal to protect interests of juvenile or persons with physical or mental defects.
Civil plaintiff, civil defendant and their legal representative shall have the right to appeal against part of judgment or decision related to compensation of damage.
Persons having interests, obligation involved in the case and their legal representative shall have the right to appeal against part of judgment or decision related to their interests, obligation.
Defense Counsel of juvenile or persons with physical or mental defects shall have the right to appeal against part of judgment or decision of the Court related to interests, obligation of the persons who are granted legal aid.
Persons who have been found innocent by the Court shall have the right to appeal against part of judgment of the first instance stating ground for such pronouncement.
Article 232. Protest by the Procuracy
The Procuracy at corresponding level or immediate higher level shall have the right to protest against judgments or decisions of the first instance.
Article 233. Procedure for appeal and protest
1. Appellant shall file an application to the Court of the first instance or the Court of appeal. If the accused is detained, the supervision Board shall secure the right to appeal of the accused.
Appellant may also make oral statement directly to the Court of the first instance about the appeal. The Court must make a record of such an appeal according to Article 95 of This Code.
2. The Procuracy at corresponding level or immediate higher level shall protest in writing, clearly stating the grounds thereof. The protest shall be submitted to the Court of first instance.
Article 234. Time limits for appeal, protest

1. Time limit for appeal shall be 15 days from the date of the judgment is rendered. In respect to the accused, concerned persons absent at the trial, time limit shall be counted from the date of copies of judgment are served on them or posted up.
Time limits for protest of the Procuracy at corresponding level shall be 15 days, for the Procuracy at immediate higher level shall be 30 days from the date of judgment is rendered.
2. If appeal is made by post, the date of appeal shall be counted from the date of the envelope stamped by the post office where the appellate application is sent. In case the application for appeal is made through the supervision Board, the date of appeal shall be counted from the date of which the application is received by the Board.

Article 235. Overdue appeal

1. Overdue appeal may be accepted if it has legitimate excuse.
2. The Court of appeal shall establish a Bench, which consists of 3 judges, to consider the grounds of overdue appeal. The Bench shall have the right to decide whether to accept overdue appeal.

Article 236. Notice of appeal, protest

1. The Court of the first instance shall notify the appeal, protest in writing to the Procuracy at corresponding level and persons participating in proceedings within 7 days from the date of receipts of the appeal, protest.
2. Persons receiving the notice of appeal, protest shall have the right to give their opinion in writing regarding the appeal, protest to the Court of appeal. Their opinion shall be recorded in the case dossier.

Article 237. Consequences of appeal, protest

1. Parts of judgment which have been appealed, protested shall not be executed, except circumstances prescribed in Item 2 Article 255 of this Code. In case the whole of judgment has been appealed, protested, the whole of judgment shall not be executed.
2. The Court of first instance shall submit case dossier and the appeal, protest to the Court of appeal within 7 days from the date of expiration of time limit for the appeal, protest.

Article 238. Supplement, alteration, withdrawal of appeal, protest

1. Prior to or during the appellate trial, appellant or the Procuracy shall have the right to supplement, alter the appeal, protest, provided that such supplement, alteration does not worsen the situation of the accused; withdraw a part of or the whole of the appeal, protest.
2. In case the whole of appeal, protest is withdrawn at the trial, the appellate hearing shall be suspended. Judgment of the first instance shall acquire legal force since the date of decision on suspension of appellate hearing is made by the Court of appeal.

Article 239. Appeal, protest against decisions of the Court of first instance

1. Time limits for protest against decisions of the Court of first instance made by the Procuracy at corresponding level shall be 7 days, by the Procuracy at immediate higher level shall be 15 days from the date of such decisions are made by the Court.
2. Decisions on temporary suspension or suspension of the case made by the Court of first instance may be appealed within 7 days from the date of such decisions received by persons who are entitled to appeal.

Article 240. Enforcement of the first instance's judgment, decision of the Court, which is not subject to appeal, protest

The first instance's judgment, decision and parts of judgment, decision of the Court, which have not been appealed, protested shall come into legal force since the expiration of time limits for appeal, protest.

Chapter XXIV

Appellate hearing Procedure

Article 241. Limit of appellate hearing

The Court of appeal shall review subject matter of appeal, protest. When it deems necessary, the Court of appeal may review parts of judgment, which have not been appealed, protested.

Article 242. Time limits for appellate hearing

The provincial People's Court, the Court of Military zone shall conduct the appellate trial within a period of 60 days; the appellate Tribunal of the Supreme People's Court, the Central Military Court shall conduct the appellate trial within a period of 90 days from the date of receipt of the case dossier.

Within 15 days prior to the trial, the Court of appeal shall notify in writing to the Procuracy at corresponding level and persons participating in the proceedings about time, venue of appellate hearing.
Article 243. Application, alteration or rescission of deterrent measures by the Court of appeal
1. After receiving case dossier, the Court of appeal shall have the right to apply, alter or rescind deterrent measures. The application, alteration or rescission of detention shall be decided by Judges holding positions of the President, the Vice President of the provincial People's Court, the Court of Military zone, the President, the Vice President of the appellate Tribunal of the Supreme People's Court; Detention period shall not exceed detention period prescribed in Article 242 of this Code
2. In respect to the accused who is detained and detention period has expired on the day of commencing the trial, if it deems necessary to continue such detention for the fulfillment of the trial, the Court shall order the accused to be detained until completion of the trial.
3. In respect to the accused who is detained and has been sentenced to imprisonment and detention period has expired on the day of terminating the trial, the Bench shall order the accused to be detained in the interest of the execution of judgment, except circumstances prescribed in Items 4 and 5 Article 227 of this Code.
In respect to the accused who is not detained, but is sentenced to imprisonment, the Bench may order the convicted to be detained right after rendering the judgment, except circumstances prescribed in Article 261 of this Code.
Detention period shall be 45 days from the date of rendering the judgment.
Article 244. Composition of the Bench of appellate hearing
The Bench of appellate hearing shall consist of 3 Judges and when it is necessary, 2 Assessors may attend.
Article 245. Persons participating the appellate trial
1. The participation of Procurator of the Procuracy at corresponding level in the appellate trial is compulsory, if Procurator absents, the trial shall be postponed.
2. Defense Counsel, person protecting the interest of person involved in the case, appellant, person having interest, obligation involved in the appeal, protest shall be summoned to the trial. If those persons absents with legitimate excuse, the Bench may conduct the hearing, but shall not render judgment or decision which is unfavorable to the absent accused or persons involved in the case. In other circumstances, the trial shall be postponed.
The time limit for the postponement of the trial as prescribed in Item 1, Item 2 of this Article or Articles 45, 46, 47 of this Code shall not exceed 30 days from the date of the decision on the postponement is made.
3. Participation in the trial of other persons shall be decided by the Court of appeal, if such participation is considered as necessary.
Article 246. Supplement, examination of evidence in the Court of appeal
1. Prior to the hearing or during the inquiry at the trial, Procurator may, by himself or upon the request of the Court, supplement new evidence; the appellant and person having interests, obligation involved in the appeal, protest, Defense Counsel, person protecting the interest of person involved in the case, shall have the right to supplement document, material, as well.
2. The previous evidence and the new one shall be examined at the trial. The judgment of the Court of appeal shall be based on the previous evidence and the new one.
Article 247. Procedure for appellate trial
The appellate trial shall be conducted in the same procedure as that of the first instance trial, but prior to the inquiry, one member of the Bench shall summarize the substance of the case, decision of the first instance judgment, subject matter of the appeal, protest. In the argument, Procurator shall give the opinion of the Procuracy of the outcome of the case.
Article 248. Appellate judgment and jurisdiction of the Court of appeal
1. The Court shall render judgment on behalf of the Socialist Republic of Vietnam. The judgment shall clearly states: time, day, month, year and venue of the trial; name of members of the Bench and the Court Secretary; name of Procurator; name, date of birth, place of birth, domicile, occupation, education, social class, criminal record of the accused; date of the accused being remanded in custody, detained; name, age, occupation, place of birth, domicile of the legal representative of the accused;

name of Defense Counsel; name, age, occupation, domicile of victim, civil plaintiff, civil defendant, person having rights, liabilities involved in the case, their legal representative.

The judgment shall summarize substance of case, case management process, decision of the first instance judgment, subject matter of appeal, protest and grounds for one of decisions as prescribed in Item 2 this Code. The final of judgment shall state decisions of the Court.

2. The Court of appeal shall have the right to:

a) Dismiss the appeal, protest and affirm the first instance judgment;

b) Amend the first instance judgment;

c) Rescind the first instance judgment and return the case dossier to re-investigate or re-hear;

d) Rescind the first instance judgment and suspend the case.

3. The appellate judgment shall acquire legal force since its pronouncement.

Article 249. Amendment of the first instance judgment

1. The Court of appeal shall have the right to amend the first instance judgment as follow:

a) Remitting criminal liability or penalty for the accused;

b) Applying provision of the Penal Code of a less serious offence;

c) Reducing penalty for the accused;

d) Reducing the amount of compensation of damage and amending decision on material evidence;

e) Applying a milder penalty; affirming the imprisonment and applying suspended sentence.

2. If there exists grounds, the Court of appeal may reduce penalty or apply provision of Penal Code of a less serious offence, apply a milder penalty; affirm the imprisonment and apply suspended sentence for the accused who has not appealed or who has not been appealed, protested.

3. The Court of appeal may, upon protest of the Procuracy or appeal of victim, increase penalty, apply provision of Penal Code of a more serious offence; increase the amount of compensation of damage, upon protest of the Procuracy or appeal of victim, civil plaintiff; if there exists grounds, the Court may still reduce penalty, apply provision of Penal Code of a less serious offence, apply a milder penalty, affirm the imprisonment and apply suspended sentence, reduce the amount of compensation of damage.

Article 250. Rescission of the first instance judgment for re-investigation or re-hearing

1. The Court of appeal shall rescind the first instance judgment to re-investigate when considers that the investigation in the first instance is insufficient and it cannot be supplemented by the appellate level.

2. The Court of appeal shall rescind the first instance judgment to re-hear in the first instance by a new Bench in the following circumstances:

a) The composition of the Bench in the first instance is unlawful or there is another serious violation of procedure;

b) There exists ground to presume that person, who has been found acquitted in the Court of first instance, is guilty.

3. When rescinding the first instance judgment for re-investigation or re-hearing, the Court of appeal shall clearly state grounds of such rescission.

4. When rescinding the first instance judgment for re-hearing, the Court of appeal shall not decide in advance evidence, which shall be admissible or inadmissible by the Court of first instance; the Court also shall not decide in advance provisions of the Penal Code and penalty, which shall be applied by the Court of first instance.

5. When rescinding the first instance judgment for re-investigation or re-hearing, if the detention period of the accused has expired and it deems necessary to continue such detention, the Court of appeal shall order the accused to be detained until the case is handled by the Procuracy or the Court of first instance. Within 15 days from the date of rescission of the first instance judgment, the case dossier shall be returned to the Procuracy or the Court of first instance to handle according to general procedure.

Article 251. Rescission of the first instance judgment and suspension of the case

When there exists one of the grounds prescribed in Items 1 and 2 Article 107 of this Code, the Court of appeal shall rescind the first instance judgment, pronounce the accused not guilty and suspend the case; if there exists one of the grounds prescribed in Items 3, 4, 5, 6 and 7 Article 107 of this Code, the Court shall rescind the first instance judgment and suspend the case.

Article 252. Re-investigation and re-hearing of criminal case

After the first instance judgment has been rescinded by the Court of appeal to re-investigate or re-hear, Investigating Bodies shall re-investigate, the Procuracy shall re-prosecute and the Court of first instance shall re-hear the case according to general procedure.

Article 253. Review of decisions made by the Court of first instance

1. With respect to decisions made by the Court of first instance which have been protested or appealed, the Court of appeal shall not conduct the trial, but if it deems necessary, the Court may summon needed persons participating in the proceedings to listen to their opinion before the Court makes its decision.

2. The Court of appeal shall make its decision on settlement of appeal or protest within 10 days from the date of receipt of the case dossier.

3. When reviewing decisions of the Court of first instance, which are subject to appeal, protest, the Court of appeal shall have the rights as prescribed in Article 248 of this Code.

4. The appellate decision shall acquire legal force since its issuance

Article 254. Delivery of appellate judgment and decision

Within 10 days from the date of rendering judgment or making decision, the Court of appeal shall sent appellate judgment or decision to the protestant, the Court, the Procuracy, the Police of the first instance, appellant, person having interest, obligation involved in the appeal, protest or their legal representative, the competent civil executive institution in case the appellate judgment sentencing fine, confiscation of property and civil decision; notify in writing of the local authorities of commune, ward, town or institution, organization where the accused domiciles or works. In case the appellate Tribunal of the Supreme People's Court conducts the appellate hearing, this time limit may prolong but not exceed 25 days.

The victim, civil plaintiff, civil defendant, person having interest, obligation involved in the case or their legal representative are entitled to request the Court to provide the excerpt or copy of judgment.

Part five

Execution of judgment and decision of Court

Chapter XXV

General provisions on execution
and decision of Court

Article 255. Judgments and decisions to be executed

1. Judgments and decisions to be executed are those have acquired legal force, including:

a) Judgments and decisions of the Court of first instance which are not appealed, protested according to the appellate procedure;

b) Judgments and decisions of the Court of appeal;

c) Judgments and decisions of the Court of cassasion or reopening.

2. In case the accused is detained and the Court of first instance suspends the case, finds the accused not guilty, remits criminal liability, remits penalty applied to the accused, imposes penalties other than imprisonment or applies suspended sentence or period of imprisonment is equal or shorter than detention period, judgment or decision of the Court is executed immediately, although may still be appealed, protested.

Article 256. Procedure for execution of judgment, decision of Court

1. Within 7 days from the date of the first instance judgment, decision acquires legal force or from the date of receipt of judgment or decision of the Court of appeal, the President of the Court of first instance shall issue order on execution of judgment or entrust another Court at corresponding level to issue such an order.

2. The order on execution shall clearly state name of the official making the order; name of institution which is responsible for executing judgment or decision; name, date of birth, domicile of the convicted; judgment or decision to be served by the convicted.

In case the convicted is not detained, the order on execution of imprisonment shall clearly state that within 7 days from the date of receipt of the order, the convicted must present at the Police station to serve the sentence.

3. The order of execution, excerpt of judgment or decision shall be sent to the Procuracy at corresponding level where the judgment is executed, the executive institution and the convicted.

4. In case the convicted, who is not detained, flees, the President of the Court which has issued the order on execution shall request the Police at corresponding level making order on hunting down the wanted person.

Article 257. Institutions, organizations that are responsible for executing judgment and decision of Court

1.The police shall execute deportation, termed imprisonment, life imprisonment and participate in the death penalty execution Council according to provision prescribed in Article 259 of this Code.

2. Local authorities of commune, ward, town or institution, organization where the convicted domiciles or works shall have duty to monitor, rehabilitate, supervise the correction of the convicted, who serving suspended sentence or non-custodial reform.

3. The execution of probation, ban from residence, deprivation of certain civic rights, ban on holding certain positions, ban on doing certain business or doing certain job shall be executed by local authorities of commune, ward, town or institution, organization of the place of execution.

4. Specialist health station shall execute the order on compulsory medical treatment

5. The executive institution of civil case shall execute fine, confiscation of property and civil decision in criminal case. Local authorities of commune, ward, town or institutions, organizations shall have duty to assist the executor to execute judgment. If it deems necessary to apply coercive execution measures, the Police and relevant institutions shall have duty to cooperate.

6. The institutions in the Arm forces shall execute judgment and decision of Military Court, except the execution of deportation.

7. The executive institutions shall notify the President of the Court, which has issued order on execution, of the execution of judgment or decision; if such judgment or decision has not been executed, the reason thereof shall be clearly stated.

Chapter XXVI

Execution of death penalty

Article 258. Procedure for reviewing death penalty before execution

1. After judgment of death penalty has acquired legal force, the case dossier shall be immediately submitted to the President of the Supreme People's Court and the judgment shall immediately submitted to the General Procurator of the Supreme People's Procuracy.

Within 2 months from the date of receipt of the judgment and the case dossier, the President of the Supreme People's Court and the General Procurator of the Supreme People's Procuracy shall decide whether to protest against the judgment according to cassasional or reopening procedure.

Within 7 days from the date of judgment has acquired legal force, the convicted shall be entitled to file an application to the President of the State for amnesty.

2. Death penalty shall be executed if there is no protest made by the President of the Supreme People's Court and the General Procurator of the Supreme People's Procuracy according to cassasional or reopening procedure.

In case death penalty is protested according to cassasional or reopening procedure and the cassasional Council, the reopening Council of the Supreme People's Court decides not to accept the protest and affirm death penalty, the Supreme People's Court shall immediately notify the convicted so that the convicted may file an application for amnesty.

In case the convicted has filed an application for amnesty, death penalty shall be executed after such an application is rejected by the President of the State.

Article 259. Execution of death penalty

1. The President of the Court of first instance shall issue order on execution and establish the death penalty execution Council, consisting of representatives of the Court, the Procuracy and the Police. The Council shall check identification of the convicted before execution.

In case the convicted is a woman, prior to issuance of order on execution, The President of the Court of first instance shall be responsible for examining non-executed death penalty circumstances prescribed in Article 35 of the Penal Code. If the convicted is subject to circumstances prescribed in Article 35 of the Penal Code, the President of the Court of first instance shall not issue order on execution and report to the President of the Supreme People's Court for considering a change from death penalty to life imprisonment applied to the convicted.

Prior to execution of a convicted woman, the Council shall, apart from checking identification, examine document related to the non-executed death penalty circumstances prescribed in Article 35 of the Penal Code.
In case the death penalty execution Council discovers that the convicted is subject to circumstances prescribed in Article 35 of the Penal Code, the Council shall postpone the execution and report to the President of the Court which has issued order on such execution in order to report to the President of the Supreme People's Court for considering a change from death penalty to life imprisonment applied to the convicted.
2. Prior to execution, the order on execution, the order on not protest of the President of Supreme People's Court and the order on not protest of the General Procurator of the Supreme People's Procuracy shall be given to the convicted for reading; in case the convicted has filed an application for amnesty, a copy of order on rejecting such an application shall be given to the convicted for reading.
3. The death penalty shall be executed by shooting
4. The execution of death penalty shall be recorded clearly stating the activities of giving those orders to the convicted for reading, the convicted's words and his correspondence, materials which he has left to his relatives.
5. In special circumstances, the death penalty execution Council shall postpone the execution and report to the President of the Court, which has issued order on such execution in order to report to the President of the Supreme People's Court.
Chapter XXVII
Execution of imprisonment and other penalties
Article 260. Execution of imprisonment
1. In case the convicted is detained, the Police shall, upon request of the convicted's relatives, permit the convicted to meet his relatives before execution.
The supervision Board shall notify the convicted's relatives of the place where the convicted serving the penalty
2. In case the convicted is not detained and fails to present in the Police station to serve the penalty within the time limit, the convicted shall be escorted.
3.The President of the Court, which has issued order on execution, shall supervise the execution. The Police shall notify the Court in writing of arrest of the convicted for the purpose of execution or reason of failure to arrest and measures required to be taken to secure the execution.
Article 261. Postponement of execution of imprisonment
1. Regarding the convicted who is not detained, the President of Court, which has issued order on execution, may, at his discretion or upon request of the Procuracy, the Police at corresponding level or the convicted, permit the execution of imprisonment to be postponed according to circumstances prescribed in Item 1 Article 61 of the Penal Code.
2. Within 7 days prior to expiration of time limit for such postponement, the President of the Court which has permitted the postponement shall issue order on execution and immediately sent such an order enclosed by a copy of judgment, decision on imprisonment which has acquired legal force to the Police at corresponding level and the convicted prior to expiration of time limit for the postponement of serving imprisonment.
Upon expiration of the 7-day time limit for the postponement of serving imprisonment, if the convicted fails to present in the Police station to go to prison without legitimate excuse, he shall be escorted to go to prison by the Police.
Article 262. Temporary suspension of execution of imprisonment
1. Upon request of the Procuracy or the supervision Board where the convicted is serving the imprisonment:
a) The President of the provincial Court where the convicted is serving the imprisonment may grant such a convicted a temporary stay of serving imprisonment according to circumstances prescribed in Points (a) Item 1 Article 61 and Article 62 of the Penal Code.
b) The President of the Court which has issued order on execution may grant the convicted who is serving imprisonment a temporary stay of serving imprisonment according to circumstances prescribed in Point (b) (c) and (d) Item 1 Article 61 and Article 62 of the Penal Code.

Within 7 days prior to expiration of time limit for such temporary stay, the President of the Court which has granted the stay shall issue order on execution of the remaining imprisonment and immediately sent such an order to the Police at corresponding level of the Court which has granted the stay and the convicted.
Upon expiration of the 7- day time limit for the temporary stay of serving imprisonment, if the convicted fails to present in the Police station to go to prison without legitimate excuse, the convicted shall be escorted to go to prison by the Police.
2. The stay of serving imprisonment according to cassasional or reopening procedure shall be decided by the official who has protested or the cassasional or reopening Court.
Article 263. Monitor of the convicted whose imprisonment's serving has been postponed or granted a stay
1. The convicted, whose imprisonment's serving has been postponed or granted a stay, shall be transferred to local authorities of commune, ward, town or institution, organization where he domiciles or works for monitoring. The convicted shall not be allowed to move to another place without permission of local authorities of such commune, ward, town or institutions, organizations that are monitoring him.
2. If during the period of the postponement or stay of serving imprisonment, the convicted seriously violates law or there exist grounds to believe that he escapes, the President of the Court, which has ordered the postponement or granted a stay shall rescind such an order and issue order on execution in order to force the convicted to serve imprisonment. The order on execution shall be sent to the Police at corresponding level of the Court which has issued the order. Right after receiving the order on execution, the Police shall be responsible for arresting, escorting the convicted to go to prison.
Article 264. Execution of suspended sentence, non-custodial reform
The convicted who serving suspended sentence or non-custodial reform shall be transferred to local authorities of commune, ward, town or institution, organization where he domiciles or works for monitoring, rehabilitating.
Article 265. Execution of deportation
The convicted, who has been sentenced deportation, shall leave the territory of the Socialist Republic of Vietnam within 15 days from the date of issuing order on execution. In case the convicted has to serve other penalties or has to fulfill other obligations, time limit for leaving the territory of the Socialist Republic of Vietnam shall be prescribed by law.
Article 266. Execution of probation or ban from residence
After having served imprisonment in full, the convicted, who has been sentenced probation, shall be transferred to local authorities of commune, ward, town where he domiciles for serving probation. The convicted who has been sentenced ban form residence, must not temporarily stay, domicile in the prohibited places.
Article 267. Execution of fine or confiscation of property
The order on execution of fine or confiscation of property shall be sent to the Procuracy at corresponding level, executor, the convicted and local authorities of commune, ward, town where the convicted domiciles.
The confiscation of property shall be conducted according to provision prescribed in Article 40 of the Penal Code.
Chapter XXVIII
Reduction of term of penalty or
remission of serving penalty
Article 268. Condition for being reduced term of penalty or remitted serving penalty
1. The convicted, who is serving imprisonment, non-custodial reform, ban on residence or probation may be reduced term of his penalty according to provisions prescribed in Articles 57, 58, 59 and 76 of the Penal Code; if the convicted has not served the penalty, he may be remitted to serve the whole of the penalty according to provisions prescribed in Items 1, 2, 3 and 5 Article 57 of the Penal Code.
The convicted, who has been granted a stay of serving of imprisonment, may be remitted to serve the remaining term of the penalty according to provision prescribed in Item 4 Article 57 of the Penal Code.
The convicted, who has paid a part of fine, may be remitted to pay the remaining amount according to provisions prescribed in Item 2 Article 58 and Item 3 Article 76 of the Penal Code.

2. The convicted, who is serving suspended sentence, may be shortened his probationary period according to provision prescribed in Article 60 of the Penal Code.

Article 269. Procedure for reduction or remission of serving penalty

1. The Court having authority to reduce term of imprisonment shall be the provincial People's Court, Court of Military zone, where the convicted serving his penalty.

Court having authority to remit serving imprisonment shall be the provincial People's Court, Court of Military zone, where the convicted domiciles or works.

The reduction or remission of other penalties or reduction of probationary period shall be decided by the district People's Court, regional Military Court, where the convicted serving his penalty or undergoing probationary period.

2. File of proposing remission of non-custodial reform, remission of the whole or the remaining term of imprisonment, remission of the remaining amount of fine shall have the proposal of the Chief Procurator of the Procuracy at the corresponding level.

File of proposing reduction of term of serving imprisonment shall have the proposal of executive institution of imprisonment.

File of proposing reduction of non-custodial reform shall have the proposal of institution, organization or local authority is mandated to directly monitor, rehabilitate the convicted.

File of proposing reduction or remission of other penalties or shortening of probationary period of suspended sentence shall have the proposal or comments of institution, organization is mandated to execute judgment prescribed in Article 257 of this Code.

3. When the Court considering reduction or remission of serving penalty, a member of the Court shall present the subject matter which is considered, the Procuracy's representative shall give his opinion, the Court shall issue order on whether to accept the proposal of reduction, remission of serving penalty or shortening of probationary period.

Chapter XXIX

Remission of Criminal Record

Article 270. Automatic remission

Upon request of a person whose criminal record is automatically wiped out according to Article 64 of the Penal Code, the President of the Court of first instance shall issue a certification stating that the criminal record of that person has been wiped out.

Article 271. Remission of criminal record by the Court

1.In circumstances prescribed in Article 65 and Article 66 of the Penal Code, the remission of criminal record shall be decided by the Court. The convicted shall file an application to the Court of first instance, enclosed by comments of local authorities of commune, ward, town or institution, organization, where the convicted domiciles or works.

2.The President of the Court of first instance shall transfer the case dossier to the Procuracy at corresponding level in order to make comments in writing. If it deems that requirements have been satisfied, the President shall issue decision on remitting criminal record; otherwise dismissing the application.

Part six

Review of judgment and decision, which has acquired legal force

Chapter XXX

Cassation

Article 272. Nature of cassation

Cassation is review of judgment or decision, which has acquired legal force but has been protested because serious violation of law in handling that case is discovered.

Article 273. Grounds for protest according to cassasional procedure

Judgment or decision of the Court, which has acquired legal force, shall be protested according to cassasional procedure, if there exists one of following grounds:

1. Examination and inquiry conducted at the trial is partial or insufficient.
2. Conclusion of the judgment or decision is inconsistent with objective facts of the case;
3. There is serious violation of criminal procedure in investigation, prosecution or adjudication;
4. There are serious mistakes in application of the Penal Code.

Article 274. Discovery of judgment or decision, which has acquired legal force to be reviewed according to cassasional procedure

The convicted, institutions, organizations and all citizens shall have the right to discover the violation of law in judgments and decisions of the Court, which have acquired legal force and inform thereof to officials who have the right to protest as prescribed in Article 275 of this Code.

In case discovering the violation of law in judgments and decisions of the Court, which have acquired legal force, the Procuracy, the Court shall inform to officials who have the right to protest as prescribed in Article 275 of this Code.

Article 275. The officials who have the right to protest according to cassasional procedure

1. The President of the Supreme People's Court and the General Procurator of the Supreme People's Procuracy shall have the right to protest against judgments or decisions, which have acquired legal force, of the Court at all levels, except those of the Judicial Council of the Supreme People's Court.

2. The President of the Central Military Court and the Chief Procurator of the Central Military Procuracy shall have the right to protest against judgments or decisions, which have acquired legal force, of the Military Court at lower levels.

3.The President of the provincial People's Court and the Chief Procurator of the Supreme People's Procuracy, the President of the Court of Military zone and the Chief Procurator of the Procuracy of Military zone shall have the right to protest against judgments or decisions, which have acquired legal force, of the Court at lower levels.

Article 276. Temporary stay of execution of judgment or decision which has been protested

The officials who have protested against judgment or decision, which has acquired legal force, shall have the right to grant a stay of execution of such a judgment or decision.

The decision on stay of execution of judgment shall be sent to the Court, the Procuracy where have conducted the first instance hearing and the competent executive institution.

Article 277. Protest according to cassasional procedure

1. A protest made according to cassasional procedure shall clearly state the grounds thereof and be submitted to:

a) The Court, which rendered protested judgment or decision;

b) The Court will review the case according to the cassasional procedure;

c) The convicted and persons having rights and interests concerning the protest;

2. If there are no grounds for protesting according to the cassasional procedure, before the expiration of time limit for protesting prescribed in Article 278 of this Code, the officials who have the right to protest shall respond to person or institution, organization which has discovered (the violation of law) about the reason(s) of not protesting.

3. Prior to cassasional trial, the protestant shall have the right to supplement the protest if time limit for protesting prescribed in Article 278 of this Code still remain, or withdraw the protest.

Article 278. Time limits for protest according to cassasional procedure

1. The protest which is unfavorable to the convicted shall be made within 1 year, from the date of judgment or decision has acquired legal force;

2. The protest, which is favorable to the convicted, may be made at any time, even if the convicted died and it is required to prove his innocence.

3. The civil protest in a criminal case against civil plaintiff, civil defendant, persons having interests, obligation involved in the case shall be made in accordance with civil procedure law.

Article 279. Jurisdiction of review according to cassasional procedure

1. The Judicial Committee of the provincial People's Court shall review judgments or decisions which have acquired legal force of the district People's Court; The Judicial Committee of the Court of Military zone shall review judgments or decisions which have acquired legal force of the regional Military Court.

2. The Criminal Tribunal of the Supreme People's Court shall review judgments or decisions, which have acquired legal force of the provincial People's Courts; The Central Military Court shall review judgments or decisions, which have acquired legal force of the Court of Military zone.

3. The Judicial Council of the Supreme People's Court shall review judgments or decisions of the Central Military Court, of the Criminal Tribunal and Appellate Tribunals of the Supreme People's Procuracy which have been protested.

4. If cassasional review of judgments or decisions which belongs to a criminal case and falls into the jurisdiction of different levels as prescribed in Items 1, 2 and 3 of this Article, the superior levels shall review the whole of the case.

Article 280. Persons participating the cassasional trial

The cassasional trial shall be participated by the Procuracy at the corresponding.

If it deems necessary, the Court shall summon the convicted, Defense Counsel and may summon persons having interests, obligation involved in the protest to attend the cassasional trial.

Article 281. Composition of the cassasional Bench

1. The cassasional Bench of the Criminal Tribunal of the Supreme People's Court or the Central Military Court shall consist of three Judges. If the Judicial Committee of the provincial people's Court, the Judicial Committee of the Court of Military zone or the Judicial Council of the Supreme People's Court reviews the case, the Bench shall consist of at least two third of the total members of such a Committee or Council.

The cassasional decision made by the Judicial Committee or the Judicial Council shall be approved by more than a half of the total members of the Judicial Committee or the Judicial Council to be legally valid.

2. At the cassasional trial conducted by the Judicial Committee of the provincial people's Court, the Judicial Committee of the Court of Military zone, the Judicial Council of the Supreme People's Court, in term of voting the protest's subject matter, the procedure shall be the vote for the protest, the vote against the protest. If there is no vote, which wins more than half of total members of the Judicial Committee, the Judicial Council, the trial shall be postponed. Within 30 days from the date of issuance of postponement decision, the Judicial Committee, the Judicial Council shall commence trial to re-hear the case with the participation of its total members.

Article 282. Preparation and Procedure for cassasional trial

1. The President of the Court shall assign a Judge to prepare a presentation at the trial. The presentation shall summarize substance of the case and judgments, decisions of the Court at different levels, subject matter of the protest. Such a presentation shall be sent in advance to the members of the Bench at least 7 days prior to the commencement of the cassasional trial.

2. At the trial, a member of the cassasional Bench shall make the presentation of the case. Members of the Bench shall give their opinion and the representative of the Procuracy shall give his opinion about the case's settlement.

If the convicted, the Defense Counsel, persons having interests, obligations involved in the protest have been summoned, those persons shall be allowed to give their opinion before the Procuracy's representative's statement. In case they absent, the Bench may still conduct the hearing.

Article 283. Time limit for cassasional trial

The cassasional trial shall be conducted within 4 months from the date of receipt of the protest.

Article 284. Limitation of cassasional hearing

The cassasional Bench shall review the whole of the case regardless of the protest's subject matter.

Article 285. Jurisdiction of the cassasional Bench

The cassasional Bench shall have the right to make decision on:

1. Dismissing the protest and affirming judgment or decision which has acquired legal force;
2. Rescinding judgment or decision which has acquired legal force and suspending the case;
3. Rescinding judgment or decision, which has acquired legal force for re-investigation or re-hearing.

Article 286. Rescission of judgment or decision, which has acquired legal force and suspension of the case

The cassasional Bench shall rescind judgment or decision which has acquired legal force and suspend the case, if there exists one of the grounds prescribed in Article 107 of this Code.

Article 287. Rescission of judgment or decision, which has acquired legal force for re-investigation or re-hearing

The cassasional Bench shall rescind judgment or decision, which has been protested in order to re-investigate or re-hear in the circumstances prescribed in Article 273 of this Code. If it is necessary to re-hear, depends on each circumstance, the cassasional Bench may decide to re-hear at the first instance or appellate level.

In case the protested judgment or decision has been rescinded in order to re-investigate or re-hear and it deems that continuous detention of the accused is necessary, the cassasional Bench shall order that the accused to be detained until the case is handled again by the Procuracy or the Court.

Article 288. Enforcement and delivery of cassasional decision

1. Decision of the cassasional Bench shall acquire legal force from the date of its issuance.

2. Within 10 days from the date of its issuance, the cassasional Bench shall deliver the cassasional decision to the convicted, the protestant, the Court, the Procuracy, the Police of the first instance, persons having interests, obligation involved in the protest or theirs legal representative, the competent executive institution of civil case; notify in writing to the local authorities of ward, commune, town or institution, organization where the convicted domiciles or works.

Article 289. Re-investigation, re-hearing of the case after the judgment or decision has been rescinded by the cassasional Bench

If the cassasional Bench decides to rescind judgment or decision which has acquired legal force in order to re-investigate, within 15 days from the date of issuance of such a decision, the case dossier shall be returned to the Procuracy at corresponding level for re-investigation according to general procedure.

If the cassasional Bench decides to rescind judgment or decision which has acquired legal force in order to re-hear at the first instance or the appellate level, within 15 days from the date of issuance of such a decision, the case dossier shall be returned to the competent Court for re-hearing according to general procedure.

Chapter XXXI

Reopening procedure

Article 290. Nature of reopening procedure

Reopening procedure shall apply to judgment or decision, which has acquired legal force but subject to protest on the ground of circumstances newly discovered that may completely change substance of the judgment or decision, which were unknown to the Court at the time of rendering such a judgment or decision.

Article 291. Grounds for protest according to reopening procedure

Grounds for protest according to reopening procedure are:

1. There are crucial points in the testimony of witness, expert's conclusion, interpretation, translation of interpreter/translator newly discovered to be incorrect;

2. Investigator, Procurator, Judge, Assessor has made incorrect decision leading to the wrong outcome of the hearing;

3. Material evidence, investigation records, records of other legal proceedings activities or other documents in the case has been forged or incorrect;

4. Other circumstances that make the settlement of the case incorrectly.

Article 292. Information and ascertainment of facts newly discovered

1. The convicted, institutions, organizations and every citizen shall have the right to discover and inform the Procuracy or the Court of facts of the case newly discovered. The Chief Procurator of the Procuracy, who have the right to protest according to reopening procedure, shall make decision on ascertaining such facts.

2. If there exists one of the grounds prescribed in Article 291 of this Code, the Chief Procurator of the Procuracy shall protest according to reopening procedure and transfer the case dossier to the competent Court. With respect to groundless information, the Chief Procurator of the Procuracy shall respond the reason of not protest to the institutions, organizations or persons who have discovered such facts.

Article 293. The officials who have the right to protest according to reopening procedure

1. The General Procurator of the Supreme People's Procuracy shall have the right to protest according to reopening procedure against judgments or decisions which have acquired legal force of the Court at all levels, except those of the Judicial Council of the Supreme People's Court.

2. The Chief Procurator of the Central Military Procuracy shall have the right to protest according to reopening procedure against judgments or decisions which have acquired legal force of the Military Court at lower levels.

3. The Chief Procurator of the provincial Procuracy shall have the right to protest according to reopening procedure against judgments or decisions, which have acquired legal force of the district People's Court.

The Chief Procurator of the Procuracy of Military zone shall have the right to protest according to reopening procedure against judgments or decisions, which have acquired legal force of the Regional Military Court.
4. The protest of the officials prescribed in this Article shall be sent to the convicted and the persons having rights, obligation involved in the protest.
Article 294. Temporary stay of execution of judgment or decision which has been protested according to reopening procedure
The officials who have protested according to reopening procedure shall have the right to grant a stay of the execution of the protested judgment or decision.
Article 295. Time limits for protest according to reopening procedure
1. Reopening procedure which is unfavorable to the convicted shall be conducted within time limit for prosecution of criminal liability prescribed in Article 23 of the Penal Code and shall not exceed 1 year since the Procuracy receives information about facts newly discovered.
2. Reopening procedure which is favorable to the convicted shall be conducted at any time and even in event of the convicted died but his innocence is required to be proved.
3. Civil protest in a criminal case regarding the civil plaintiff, civil defendant, the persons having rights, obligation involved in the case shall be conducted according to civil procedure law.
Article 296. Jurisdiction of Court of reopening procedure
1. The Judicial Committee of the provincial People's Court shall review judgments or decisions of the district People's Court which have acquired legal force; The Judicial Committee of the Court of Military zone shall review judgments or decisions of the Regional Military Court which have acquired legal force;
2. The Criminal Tribunal of the Supreme People's Court shall review judgments or decisions of the provincial People's Court, which have acquired legal force; The Central Military Court shall review judgments or decisions of the Court of Military zone, which have acquired legal force;
3. The Judicial Council of the Supreme People's Court shall review judgments or decisions of the Central Military Court, the Criminal Tribunal and Appellate Tribunals of the Supreme People's Court, which have acquired legal force.
Article 297. Process of reopening procedure
Provisions of Articles 280, 281, 282 and 283 of this Code shall also apply to reopening procedure.
Article 298. Jurisdiction of the Bench of reopening procedure
The reopening procedure Bench shall have the right to make decision on:
1. Dismissing the protest and affirming judgment or decision which has acquired legal force;
2. Rescinding judgment or decision which has been protested for re-investigation or re-hearing;
3. Rescinding judgment or decision which has been protested and suspending the case;
Article 299. Enforcement and delivery of reopening procedure decision
1. Decision of the reopening procedure Bench shall acquire legal force from the date of its issuance.
2. Within 10 days from the date of its issuance, the reopening Bench shall deliver the reopening decision to the convicted, the protestant, the Court, the Procuracy, the Police of the first instance, persons having interests, obligation involved in the protest or theirs legal representative, the competent executive institution of civil case; notify in writing to the local authorities of ward, commune, town or institution, organization where the convicted domiciles or works.
Article 300. Re-investigation or re-hearing of the case
1. If the reopening Bench decides to rescind judgment or decision, which has acquired legal force in order to re-investigate, within 15 days from the date of issuance of such a decision, the case dossier shall be returned to the competent Procuracy for re-investigation according to general procedure.
2. If the reopening Bench decides to rescind judgment or decision, which has acquired legal force in order to re-hear the case at the first instance, within 15 days from the date of issuance of such a decision, the case dossier shall be returned to the competent Court for re-hearing according to general procedure.
Part 7
Extraordinary procedure
Chapter XXXI
Procedure of criminal cases involving the juvenile charged person and accused

Article 301 Applicability

Procedure involving the juvenile charged or accused person shall be conducted according to provisions of this charter and other provisions of this Code in so far they are not contrary to provisions of this Chapter.

Article 302. Investigation, prosecution and adjudication

1. Investigator, Procurator, Judge conducting proceedings involving juvenile offenders must be persons furnished with necessary knowledge of psychology, educational science and experiences in the field of prevention of crimes committed by the juvenile.

2. In conducting investigation, prosecution and adjudication, it is required to ascertain:

a. Age, physical and mental level of development, capability to realize consequences of their criminal conduct;

b. Living and educational conditions;

c. Whether the offence has been committed under inducement by any adult;

d. Related causes and conditions in the offence.

Article 303. Arrest, detention and remand in custody

1. Persons who are full 14 years of age or above but under 16 years of age can be arrested, detained and remanded in custody if there are enough grounds stipulated in articles 80, 81, 82, 86, 88 and 120 of this Code provided that they intentionally committed very serious offences or they committed particularly serious offences.

2. Persons who are full 16 years of age or above but under 18 years of age can be arrested, detained and remanded in custody if there are enough grounds stipulated in articles 80, 81, 82, 86, 88 and 120 of this Code provided that they intentionally committed serious offences or they committed serious offences or particularly serious offences.

3. Agencies which issue arrest, detention or remand in custody warrants towards the juvenile must immediately inform their families and legal representatives once the warrants conducted.

Article 304. Supervision on the juvenile offender

1. Investigating Body, Procuracy and Court may order the juvenile offender to be transferred to their parents or sponsors for supervision in order to ensure their presence upon summons by bodies conducting criminal proceedings.

2. Persons responsible for supervision shall have the duty to exercise close supervision on the juvenile, look over their character, moral and educate them.

Article 305 Defense Counsel

1. Legal representatives of the juvenile person remanded in custody, the juvenile charged or accused person can select a Defense Counsel or may by themselves defense the juvenile person remanded in custody, the juvenile charged or accused person.

2. If the juvenile charged or accused person or their legal representatives can not select a Defense Counsel, Investigating Body, Procuracy or Court may order the Bar Association to assign one Legal Office to send a Defense Counsel for them or recommend the Committee of the Vietnam Father Land's Front or one organization in Father Land's Front to send a person acting as Defense Counsel for its member.

Article 306. Participation of family, school and organizations in proceedings

1. Representative of family, teacher of the juvenile detained, charged and accused person, representative of school, HoChiMinh Youth Union and other organizations where the juvenile detained, charged and accused person learned, worked or lived shall have the right and duty to take parts in proceedings according to the decisions made by Investigating Body, Procuracy and Court.

2. In case the person remanded in custody or the charged person are full 14 years of age or above but under 16 years of age or the juvenile with mental or physical defects or in other necessary cases, the interrogation of such persons must be conducted with the attendance of representative of family unless representative of family is absent intentionally without rational reason. The representative may pose questions to the detained, accused person with consent of Investigator and may present documents and objects, make requests, lodge complaints, read case file once the investigation is concluded.

3. At the trial involving the juvenile accused, there must be the attendance of representative of the accused's family unless representative of family is absent intentionally without rational reason, representative of the school, other organizations.

At trial, representative of the accused's family or of the school and other social organizations have the right to present documents and objects, make requests and recommendations of changing the officials conducting proceedings, take parts in debates, lodge complaints about acts in proceedings made by officials conducting proceedings and against decisions of the Court.

Article 307 Hearing

1. The composition of the bench must include an assessor who is either a teacher or representative of HoChiMinh youth union.

When necessary, the Court may decide a close trial to be held.

2. During hearing, the Court may, if it deems unnecessary to impose a punishment against the accused, apply the judicial measures referred to in article 70 of the Penal Code.

Article 308. Serving of imprisonment

1. Juvenile offenders shall serve the sentence of imprisonment according to a specific status of imprisonment as provided by law.

Juvenile offenders must be kept separately from adult offenders in prison.

2. The convicted juvenile shall be entitled to access vocational training and education during the term of imprisonment.

3. When a juvenile offender who is serving imprisonment turns to the age of 18 years, he must serve his imprisonment under the same status as for an adult offender.

4. In respect to the juvenile who completes his imprisonment, the supervision board of the prison must coordinate with institutions of the State and social organizations in villages, communes and towns to enable the juvenile to rehabilitate into the society.

Article 309 Termination of execution of judicial measures, reduction of or exemption from imprisonment

Termination of execution of judicial measures, reduction of or exemption from imprisonment may be granted to the juvenile if there exist requirements mentioned in Article 70 or 76 of the Penal Code.

Article 310. Expunge of previous conviction

Expunge of previous convictions (criminal records) for the juvenile offenders - when there are requirements provided in Article 77 of the Penal Code - shall also be conducted according to general procedure

Chapter XXXII

Procedures for adoption of compulsory heath care treatment

Article 311. Conditions and authority of adopting compulsory health care treatment

1. When there exist grounds indicating that persons who committed an act dangerous to the society are unable to bear the criminal liability as provided in the Article 13 of the Penal Code, Investigating Body, Procuracy or Court, depended on the particular stage of proceedings, must request for forensic examination.

2. Upon the results of the Commission of Forensic Examination, Procuracy may adopt compulsory heath care treatment in the investigation and indictment stages; Court may adopt heath care treatment at the stage of adjudication or execution of judgments.

Article 312 Investigation

1. In cases existing grounds provided in item 1, Article 311 of this Code, Investigating Body must clarify :

a. Whether acts dangerous for the society were committed or not;

b. Metal condition and mental illness of person who committed acts dangerous for the society;

c. Whether the person who committed acts dangerous for the society has the capability to be aware of and control his acts or not.

2. In conducting proceedings, Investigating Body must ensure the participation of Defense Counsel in proceedings from the time when the person committing the acts dangerous for the society proved mentally ill. The legal representative of that person may participate in proceedings when necessary.

Article 313 Decisions made by Procuracy after investigation is concluded

After receiving the file of the case and investigation conclusion, Procuracy may issue one of the following decisions :

1. On temporary suspension or suspension of the case;
2. On suspension of the case and impose compulsory heath care treatment;
3. On indictment of the charged person before court.

Article 314. Hearing

1. The court may render one of the following decisions:

a. On exemption of criminal liability or punishment and adoption of compulsory heath care treatment;

b. On suspension of the case and adoption of compulsory heath care treatment;

c. On temporary suspension of the case and adoption of compulsory heath care treatment;

d. On return of the case file for re - investigation or additional investigation.

2. In addition to imposing compulsory health care treatment, the court may resolve claims for recovery of damage or other matters related to the case.

Article 315. Imposition of compulsory health care treatment on persons serving imprisonment

If there exist grounds indicating that person serving imprisonment is mentally ill or has defects which deprive that person of the capability to be aware of or control his conducts, upon the recommendation of the Execution Body, the President of Court of provincial Court or of military Court of military zone where the person is serving his imprisonment must request for forensic examination.

Based on the conclusions of the Commission of forensic experts, the President of Provincial Court or of Court of Military Zone where the person is serving his imprisonment may issue a decision on sending that person to a specialized health care institution for compulsory health care treatment. After being recovered from his illness, that person will continue to serve his imprisonment if there is no ground to exempt the punishment.

Article 316. Complaint and appeal

1. When the decision of the Procuracy on compulsory health care treatment has been complained about, the case shall be brought to court at the corresponding level to open the first instance hearing.
2. Appeal or protest against the decision of the court on compulsory health care treatment shall be conducted pursuant to the same procedure for making appeal against judgment of the first instance.
3. Decision on compulsory health care treatment shall be legally enforceable notwithstanding complaint, protest and appeal lodged against such decision.

Article 317. Execution and suspension of compulsory health care treatment

1. Compulsory health care treatment shall be executed in a specialized health care institution appointed by Procuracy or Court.
2. Upon the report of the health care treatment institution or application of relatives of the person on whom the compulsory health care treatment is imposed, or request of the Procuracy, based on the conclusions of the Commission of Forensic Examination, Procuracy or Court which issued the decision on compulsory health care treatment shall render a decision on suspension of compulsory health care treatment, and at the same time, reinstitute proceedings which were suspended temporarily.

Chapter XXXIII

Summary Procedure

Article 318. Applicability of the summary Procedure

Summary Procedure in investigation, indictment and first instance adjudication is applied according to provisions of the Charter and other provisions of the Code in so far they are not contrary to provisions of the Charter

Article 319. Requirements for the application of the summary procedure

Summary procedure shall apply only when all the following requirements are met:

1. Person who committed the offence is caught red-handed;
2. The criminal acts are simple with clear evidence.
3. The offence committed is not serious;
4. The person has the clear identification and personal file.

Article 320. Decision on the adoption of the summary procedure

1. After the institution of the case, upon the proposal of the Investigating Body or considering that all requirements provided in article 319 of the Code are met, Procuracy can make decision on adopting the summary procedure.
2. The decision on applying the summary procedure must be sent to the Investigating Body, the accused person or his legal representative within 24 hours from the time when the decision on adopting summary procedure is issued.
3. The decision on applying the summary procedure can be complained. The accused person or his legal representative has the right to lodge complaints about the decision on adopting summary procedure; the statute of limitation for complaints is 3 days counted from the date of receipt of decision on applying the summary procedure. The complaint should be delivered to the Procuracy that made the decision on adopting the summary procedure and must be handled within 3 days from the date of receipt of the complaint.

Article 321. Investigation

1. Time limit for investigation in the summary procedure is 12 days from the date of institution of the case.
2. When the investigation is concluded, the Investigating Body does not need to make the investigation conclusion but makes a decision on proposing indictment and sends the case-file to Procuracy.

Article 322 Detention or remand in custody for investigation, indictment

1. The ground for, the authority and the procedure of adopting detention or remand in custody must abide by the provisions in the Code.
2. The time limit for remand in custody can not exceed three days from the date of receipt of the arrested person by the Investigating Body.
3. The time limit on detention for investigation, indictment can not exceed 16 days.

Article 323 Decision on indictment

1. Within 4 days, from the date of receipt of the case-file, the Procuracy must make one of the following decisions :

a. On filing an indictment bill;
b. On returning the file for further investigation;
c. On temporarily suspending the case;
d. On suspending the case.

2. When the case is returned for further investigation or suspended as provided in items 1 (c) and (b) of the article, the Procuracy shall issue a decision on canceling the decision on adopting the summary procedure and then the case will be handled according to the general procedure.

Article 324. Hearing

1. Within 7 days from the date of receipt of the case-file, the trial judge must issue one of the following decisions :

a. On bringing the case to the court trial;
b. On returning the file for further investigation;
c. On temporarily suspending the case;
d. On suspending the case.

2. When the case is decided to be brought to the court trial as provided in Item 1 (a) of the article, within 7 days from the date of issuing the decision, the court must open the trial. The trial process of first instance is conducted according to the general procedure.

3. When the case is returned for further investigation or suspended as provided in item 1 (c) and (b) of the article, the court shall return the case to the Procuracy and the case will be handled according to the general procedure.

4. If necessary, the Court of the first instance shall decide to detain the accused to guarantee the hearing. The time limit for detention can not exceed 14 days.

5. The appeal, cassation and re-opening of the case towards the cases heard at first instance under the summary procedure shall be conducted in the general procedure.

Chapter XXXIV

Complaint and denunciation in criminal proceedings

Article 325 Person entitled to the right to complain

Agencies, organizations and individuals have the right to complain about decisions, acts in criminal proceedings made by bodies and persons conducting criminal proceedings if there exist grounds for violations of laws or/and infringements of their legal rights and interests.

The appeal against unenforceable judgments and decisions of the first instance, complaints against enforceable judgments and decisions are not handled under the provisions in this Charter but under provisions in Charter XXIII, XXIV, XXX, XXXI of the Code.

Article 325. Rights and obligations of the complainant

1. The complainant has the following rights:

a) To lodge complaints by himself or through his legal representative;

b) To lodge complaints at any stage of the process of handling of a criminal case;

c) To drop his complaints in any stage of the process of handling his complaints;

d) To receive the paper on the handling of his complaints;

e) To have his legal rights and interests which were infringed upon recovered and compensated for damage according to the laws.

2. The complainant has the following obligations:

a) To present the facts honestly, to provide information and documents to persons handling his complaints; to bear legal liability for information and documents presented;

b) To obey the handling of complaints.

Article 327. Rights and obligations of the complained persons

1. The complained person has the following rights :

a) To present evidence justifying for the legality of the decisions and acts in proceedings which are complained about;

b) To receive the paper on the handling of complaints against his decisions and acts in proceedings.

2. The complained person has the following obligations :

a) To give explanation concerning what is complained about and to provide information and documents when requested by the authorized persons and bodies;

b) To obey the handling of complaints;

c) To compensate for damage and restore consequences caused by his illegal decisions and acts in proceedings in conformity with the laws.

Article 328. The statute limitation for complaints

The statute limitation for complaints is 15 days counted from the date when the complainant supposes or knows that there are violations of laws in relevant decisions and acts.

If the complainant can not exercise his right to complaint due to illness, disaster, warfare, business, faraway study or other unintentional obstacles, the time of such difficulties is not counted for the statute limitation for complaints.

Article 329. Authority and time limit for handling of complaints about Investigator, Head of Investigating Body and his Deputy

Complaints about decisions and acts in criminal proceedings made by Investigator or Deputy - Head of Investigating Body must be considered and handled by Head of the Investigating Body within seven days from the date of receipt of complaints. If not satisfied with the handling of these complaints, the complainant has the right to lodge complaints to the Procuracy at the corresponding level. Within seven days from the date of receipt of the complaints, the Procuracy at the corresponding level must consider and handle these complaints. The Procuracy at the corresponding level has the authority of making the final decision on the handling of complaints

The complaints about decisions and acts in criminal proceedings made by Head of Investigating Body and decisions in criminal proceedings made by the Investigating Body and approved by Procuracy are handled by Procuracy at the corresponding level within 7 days from the date of receipt of complaint. If not satisfied with the handling of complaint, the complainant has the right to lodge complaints to the Procuracy at immediate higher level. Within 15 days from the date of receipt of the complaints, the Procuracy at immediate higher level must consider and handle the complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Article 330. Authority and time limit for handling of complaints about Procurator, Deputy- Chief Procurator, Chief Procurator

Complaints about decisions and acts in criminal proceedings made by Procurator, Deputy-Chief Procurator is handled by Chief Procurator within 7 days from the date of receipt of the complaints. If not satisfied with the handling of the complaints, the complainant has the right to lodge complaints to the Procuracy at immediate higher level. Within 15 days from the date of receipt of the complaints, the Procuracy at immediate higher level must consider and handle these complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Complaints about decisions and acts in criminal proceedings, made by the Chief-Procurator must be handled by the Procuracy at immediate higher level within 15 days from the date of receipt of the complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Article 331. Authority and time limit on handling complaints about Judge, Vice-President of Court, President of Court

Complaints about decisions and acts in criminal proceedings made by Judge, Vice-President of Court pending the hearing are handled by President of Court within 7 days from the date of receipt of the complaints. If not satisfied with the handling of the complaints, the complainant has the right to lodge complaints to the Court at immediate higher level. Within 15 days from the date of receipt of the complaints, the Court at immediate higher level must consider and handle the complaints. The Court at immediate higher level has the authority of making the final decision on the handling of complaints.

Complaints about decisions and acts in criminal proceedings made by President of Court pending the hearing are handled by the Court at immediate higher level within 15 days from the date of receipt of the complaints. The Court at immediate higher level has the authority of making the final decision on the handling of complaints.

Article 332. Authority and time limit for handling complaints about persons authorized to conduct some investigating activities

Complaints about decisions and acts in criminal proceedings made by person authorized to conduct some investigating activities are handled by the Procuracy authorized to make indictment within 7days from the date of receipt of the complaints. If not satisfied with the handling of the complaints, the complainant has the right to lodge complaints to the Procuracy at immediate higher level. Within 15 days from the date of receipt of complaints, the Procuracy at immediate higher level must consider and handle the complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Complaints about decisions in criminal proceedings approved by Procuracy are handled by the Procuracy which made the approval within 7 days from the date of receipt of the complaint. If not satisfied with the handling of the complaints, the complainant has the right to lodge complaints to Procuracy at immediate higher level. Within 15 days from the date of receipt of the complaint, the Procuracy at immediate higher level must consider and handle the complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Article 333. Time limit for handling complaints about the adoption of arrest, detention and remand in custody

Complaints about the application of arrest, remand in custody and detention must be considered and handled immediately by Procuracy. In case extra time is needed to do more examination, time limit for extra examination cannot exceed 3 days from the date of receipt of the complaints. If not satisfied with the handling of the complaints, the complainant has the right to lodge complaints to the Procuracy at immediate higher level. With 7 days from the date of receipt of the complaints, the Procuracy must consider and handle the complaints. The Procuracy at immediate higher level has the authority of making the final decision on the handling of complaints.

Article 334. Persons entitled to denunciations

Any citizen has the right to make denunciations to the authorized persons and bodies about violations of laws committed by any authorized person in proceedings causing damage or threatening to cause damage to the interests of the State, the legitimate rights and interests of citizens, agencies and organizations.

Article 335. Rights and obligations of the denunciator

1. The denunciator has right :

a) To make denunciations or directly denounce to authorized persons and bodies;

b) To request his name, address and related documents kept secret;

c) To request informed of the result of the handling of the denunciations;

d) To request the protection from the authorized bodies and organizations when threatened or revenged.

2. The denunciator has the following obligations :

a) To present honestly the denunciation's issues;

b) To give out his name and address;

c) To bear liability for false denunciations.

Article 336. Rights and obligations of the denounced person

1. The denounced person has the following rights :

a) To be informed of the content of denunciations;

b) To give evidence against the content of the denunciations;

c) To have his legitimate rights and interests which are infringed upon recovered, to have his dignity recovered and to be compensated for damage caused by false denunciations;

d) To request the authorized persons, agencies and organizations to handle the person making false denunciations.

2. The denounced person has the following obligations :

a) To give explanation on the denounced acts; provide relevant information and documents when requested by the authorized persons and bodies;

b) To obey the handling of denunciations by the authorized persons and bodies;

Article 337. Authority and time limit for handling denunciation

1. The denunciation about violations of laws committed by authorized persons or bodies in proceedings is handled by head of those bodies themselves.

In case the denounced person is Head of the Investigating Body, Chief Procurator, President of Court, the denunciation is handled respectively by the Investigating Body, Procuracy, Court at immediate higher level. The denunciation about acts in proceedings made by person who is authorized to conduct some investigation activities is considered and handled by the Procuracy authorized to make indictment.

The time limit for handling denunciations can not exceed 60days from the date of registration of the denunciation. In complicated cases, the time limit may be prolonged but not exceed 90 days.

2. Denunciation about violations of laws which are of criminal character is handled under Article 103 of this Code.

3. Denunciation about arrest, detention and remand in custody must be considered and handled immediately by the Procuracy. In case extra examination is needed, the time limit can not exceed 3 days

Article 338. Obligations of the persons authorized to handle denunciations and complaints

The authorized persons and bodies, under their duty and authority, are responsible for receiving and handling the complaints and denunciations on time in conformity with the laws and notifying the complainant and denunciator of the handling of complaints and denunciation by a written paper, punishing the violator; adopting necessary measures to prevent possible damage; guaranteeing the observation of the decision of handling complaints and denunciations and bearing legal liability for their handling.

The persons authorized to handle complaints and denunciations who do not handle the complaints and denunciations or lack responsibility in handling them, depending on the nature and the extent of violations, can be disciplined or prosecuted for criminal liability and must compensate for damage, if any, in conformity with the laws.

Article 339. Duties and authority of Procuracy in supervision over the handling of denunciation and complaints in criminal proceedings

1. Procuracy order Investigating Body, Court at corresponding or lower level, Force of Boundary Defense, Custom, Forest Protecting Force, Marine Police and other bodies in pubic security and army sectors authorized to conduct some investigating activities :

a. To issue documents on handling denunciations and complaints in conformity with provisions of the Charter;
b. To supervise the handling of denunciation and complaints at the corresponding or lower level; and inform Procuracy of the results of the supervision;
c. To provide file and documents related to the handling of denunciations and complaints to Procuracy.
2. Procuracy directly supervises the handling of denunciations and complaints in Investigating Body, Court, Force of Boundary Defense, Custom, Forest Protecting Force, Marine Police and other bodies in pubic security and army sectors authorized to conduct some investigating activities.

Part IIX

International Cooperation

Chapter XXXVI

General provisions

On international cooperation in criminal proceedings

Article 340. Principles of international cooperation in criminal proceedings.

International cooperation in criminal proceedings between authorized bodies in criminal proceedings of the Socialist Republic of Vietnam and their foreign counterparts shall be conducted in the principles of respect for national independence, sovereignty, territorial integrity, non-intervention in the internal affairs, equality and mutual benefits, in conformity with the constitution of the Socialist Republic of Vietnam and fundamental principles of international law.

International cooperation in criminal proceedings shall be conducted in conformity with international treaties to which the Socialist Republic of Vietnam is a State party and the Vietnamese domestic law.

In case where there is no relevant treaty to which the Socialist Republic of Vietnam is a State party, international cooperation in criminal proceedings shall be conducted under the principle of reciprocity provided that it may not violate Vietnamese domestic laws, international laws and practices.

Article 341. Execution of the request for mutual judicial assistance

In case of execution of the request for mutual judicial assistance, the authorized bodies or persons in criminal proceedings of the Socialist Republic of Vietnam shall apply relevant provisions of international treaties to which the Socialist Republic of Vietnam is a State party and other provisions of this Code.

Article 342. Refusal of execution of the request for mutual judicial assistance

Mutual judicial assistance in criminal proceedings may be refused by authorized bodies in criminal proceedings of the Socialist Republic of Vietnam under one of the following circumstances :
1. The request is not consistent with domestic laws of the Socialist Republic of Vietnam and international treaties to which Vietnam is a State party and Vietnam domestic laws.
2. The execution of the request is likely to prejudice the sovereignty, national security and other fundamental interests of the Socialist Republic of Vietnam.

Chapter XXXVII

Extradition and transfer of the file, documents, objects of the case

Article 343. Extradition for prosecution for criminal proceedings or execution of a judgment

Pursuant to international treaties to which the Socialist Republic of Vietnam is a State party or to the principle of reciprocity, the Vietnamese authorized bodies in criminal proceedings can :
1. Lodge a request to their foreign counterparts for extraditing a person who committed offense or was convicted with an enforceable criminal judgment to the Socialist Republic of Vietnam for prosecution for criminal liability or execution of punishment;
2. Extradite a foreigner who committed offense or was convicted with an enforceable criminal judgment in the territory of the Socialist Republic of Vietnam to the requesting country for prosecution for criminal liability or execution of punishment.

Article 344. Refusal of extradition

1. The Vietnamese authorized bodies in criminal proceedings shall refuse extradition under one of the following circumstances:
a) The sought person is a citizen of the Socialist Republic of Vietnam;

b) Under the domestic laws of the Socialist Republic of Vietnam, the sought person cannot be prosecuted for criminal liability or the sought person does not need to serve the sentence due to the lapse of time or other legal reasons;
c) The sought person is convicted by a court of the Socialist Republic of Vietnam with an enforceable judgment for the offence for which extradition is requested or if the case is suspended as provided for in the Code
d) The sought person is residing in Vietnam for the reason of possible persecution by the requesting country due to the discrimination of race, religion, nationality, minority, social class and political view.
2. The extradition request may be refused under one of the following circumstances :
a) Under the criminal law of the Socialist Republic of Vietnam, the offence for which the extradition is requested is not punishable;
b) The sought person is being prosecuted in Vietnam for the offence for which the extradition is requested.
3. The authorized bodies in criminal proceedings of the Socialist Republic of Vietnam that refused extradition according to paragraph (1), (2) of this Article have responsibility of notifying their foreign counterparts.
Article 345 The transfer of the file and evidence of the case
1. In the case involving foreigners who committed offense in the territory of the Social Republic of Vietnam, if the proceedings can not be conducted because the foreigners are abroad, the authorized bodies in proceedings which are handling the case can transfer the case file to the Supreme People's Procuracy in order to do other necessary procedures to transfer the case to the relevant authorized body abroad.
3. When transferring the case to the relevant authorized body abroad, the authorized bodies in criminal proceedings of the Socialist Republic of Vietnam can transfer the evidence of the case.
Article 346. The reception, transfer of documents, objects and money related to the case.
1. The reception of documents related to the case are conducted in conformity with international treaties to which the Socialist Republic of Vietnam and provisions of the Codes.
2. The transfer of objects and money related to the case to the territories outside the territory of the Socialist Republic of Vietnam is conducted in conformity with laws of the Socialist Republic of Vietnam.