# CRIMINAL PROCEDURE ACT

[Enforcement Date 29. May, 2016.] [Act No.14179, 29. May, 2016., Partial Amendment]

법무부(형사법제과), 02-2110-3307~8

## PART I GENERAL PROVISIONS

## CHAPTER I JURISDICTION OF COURTS

### Article 1 (Investigation of Jurisdiction Ex Officio)

The court shall ex officio investigate jurisdiction.

### Article 2 (Violation of Jurisdiction and Effect of Procedural Acts)

An action of litigation shall not lose effect by reason of the inappropriate jurisdiction.

**Article 3 (Performance of Duties Outside Jurisdiction)** (1) Where it is necessary for the purpose of fact-finding or in case of urgency, the court may perform its duties or take such measures as may be necessary for the fact-finding, outside its jurisdiction.

(2) The preceding paragraph shall apply mutatis mutandis to a commissioned judge.

**Article 4 (Territorial Jurisdiction)** (1) The territorial jurisdiction of the court shall be determined by the place of offense, the place of domicile or residence of the criminal defendant, or the place where the criminal defendant is presently located.

(2) In respect to an offense committed on board a Korean vessel sailing outside Korea, in addition to the places referred to in the preceding paragraph, the territorial jurisdiction of the court shall be determined by the place where the vessel is registered or the place where such vessel has lain at anchor subsequent to the commission of the offense.

(3) The provisions of the preceding paragraph shall apply mutatis mutandis to an offense committed in a Korean aircraft while outside Korean territory.

### Article 5 (Consolidation of Territorial Jurisdiction)

When several cases falling under the territorial jurisdiction of different courts are co-related with each other, a court which has jurisdiction over one of them may exercise jurisdiction over the other cases.

### Article 6 (Consolidated Proceedings for Territorial Jurisdiction)

When several co-related cases falling under the territorial jurisdiction of different courts are pending severally in different courts, the next immediately higher court being common to all such courts may, upon request of a prosecutor or the criminal defendant, make a ruling that the cases shall be consolidated in one court.

### Article 7 (Separate Proceedings for Territorial Jurisdiction)

Where several co-related cases falling under the territorial jurisdiction of different courts are pending before one court, and there is any case unnecessary to be examined by consolidation, the said court may separate and transfer it to other court having jurisdiction, by its ruling.

Article 8 (Transfer of Case Ex Officio) (1) If a criminal defendant is not found in the district under the territorial jurisdiction of the court, and if there are any extraordinary circumstances, the court may, by its ruling, transfer the case to an equivalent ranking court which has jurisdiction over the place where the criminal defendant is presently located.

(2) Where a case under the jurisdiction of a single judge is changed into that of the collegiate body of a court due to amendments to the bill of indictment, the court shall transfer the case to the court having the jurisdiction over such case, by its ruling. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

Article 9 (Consolidation of Substantive Jurisdiction)

When several cases the substantive jurisdiction of which is different, are co-related with each other, the collegiate body of the court shall exercise jurisdiction over all of them by consolidation: Provided, That the court may transfer the case to a single judge of a court having jurisdiction over the cases, by its ruling.

Article 10 (Combined Proceedings for Substantive Jurisdiction)

When several co-related cases the substantive jurisdiction of which is different are severally pending before the collegiate body and a single judge of a court, the collegiate body of a court may, notwithstanding the jurisdiction of the subject matter, examine by consolidation the case belonging to the jurisdiction of the single judge by its ruling.

Article 11 (Definitions of Co-Related Cases)

Related cases shall be as follows:

1. Any case concerning multiple offenses committed by one person;
2. Any case concerning an offense jointly committed by several persons;
3. Any case concerning offenses committed individually by several persons at the same time and at the same place;
4. Any case concerning an offense of harboring an offender, suppression of evidence, perjury, false expert testimony, or interpretation, or an offense relating to the stolen goods, and an offense of the primary offender thereof.

Article 12 (Lis Pendens of One and Same Case before Two or More Courts)

When one and the same case is pending before two or more courts the substantive jurisdiction of which is different, it shall be examined by the collegiate body of the court.

Article 13 (Concurrence of Jurisdiction)

When one and the same case is pending before two or more courts the substantive jurisdiction of which is identical, the court in which the public prosecution therefor has first been instituted shall examine the case: Provided, That the next immediate higher court being common to all such courts may, upon application of a prosecutor or the criminal defendant, require the court in which the prosecution therefor has been instituted later, to examine such case by its ruling.

Article 14 (Request for Designation of Jurisdiction)

In the following cases, a prosecutor shall apply to the next immediate higher court being common to the first instance court concerned for the designation of jurisdiction:

1. When the jurisdiction of the court is not clear;

2. When there is no other competent court in respect to such case as the decision declaring the inappropriate jurisdiction therefor has become final and conclusive.

Article 15 (Application for Transfer of Jurisdiction)

In the following cases, a prosecutor shall apply to the next immediate higher court for the transfer of the case to other court; the criminal defendant may also do so:

1. When for a legal reason, or owing to extraordinary circumstances the court having jurisdiction is unable to exercise its judicial power;
2. When owing to the nature of the offense, the popular sentiment of the district, the circumstances of the proceedings, or any other circumstances, there is any apprehension that an impartial trial cannot be maintained.

Article 16 (Form of Designation of Jurisdiction and Application for Transfer) (1) In case of an application for designation of jurisdiction or transfer to other court, a written application stating the cause shall be submitted to the next immediate higher court.

(2) When an application for designation of jurisdiction or transfer to other court is made after the institution of the prosecution, the notice thereof shall be immediately given to the court in which the prosecution has been instituted.

Article 16-2 (Transfer of Cases to Military Court)

When a military court comes to have jurisdiction over a case in which public prosecution has been instituted or it is found that the military court has jurisdiction over such case, the relevant court shall, by its ruling, transfer such case to the military court having jurisdiction of the same instance. In this case, the acts of litigation already done before the transfer shall not lose the effect thereof by reason of the transfer. <Amended by Act No. 3955, Nov. 28, 1987>

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

## CHAPTER II EXCLUSION, CHALLENGE AND REFRAINING OF COURT OFFICIALS

Article 17 (Reasons for Exclusion)

In the following cases, a judge is excluded from the exercise of his/her duties: <Amended by Act No. 7427, Mar. 31, 2005>

1. Where the judge himself/herself is a victim;
2. Where he/she is a relative of a criminal defendant or a victim or had a kinship with such person;
3. Where he/she is the legal representative, supervisor of guardianship of the criminal defendant or the victim;
4. Where he/she has become a witness or an expert witness in regard to the case, or has become an agent of the victim;
5. Where he/she has acted as the representative, counsel or assistant of the criminal defendant with respect to the case;
6. Where he/she has exercised the duties of a prosecutor or a senior judicial police officer pertaining to the case;
7. Where he/she has participated in the decision by the court below or investigation or trial which constituted the basis thereof in the case.

Article 18 (Reasons for Challenge and Person entitled to Apply for Challenge) (1) In the following cases, a prosecutor or the criminal defendant may challenge a judge:

1. If a judge falls under any of the reasons referred to in subparagraphs of the preceding Article;
2. If there is any apprehension that a judge may render an unfair judgment.

(2) A counsel may file an application for challenge against a judge only when it does not go against the express will of the criminal defendant.

Article 19 (Jurisdiction over Motion for Challenge) (1) The challenge against a judge who is a member of a collegiate court shall be applied to the court to which the judge belongs, and the challenge against a commissioned judge, requisitioned judge, or single judge shall be filed against the relevant judge.

(2) A cause of challenge shall be made by preparing presumptive proof in writing within three days from the date on which the application has been filed.

Article 20 (Dismissal and Management of Application for Challenge) (1) An application for challenge which evidently aims at delay of the proceedings or contravenes the provisions of Article 19, shall be dismissed by a ruling by the court or judge who has received such application. <Amended by Act No. 5054, Dec. 29, 1995>

(2) The judge who has been challenged shall submit a written opinion on the application for challenge without delay, except as provided in the preceding paragraph.

(3) In the case of the preceding paragraph, when the challenged judge considers that the challenge is reasonable, the ruling thereof shall be deemed rendered.

Article 21 (Decision on Application for Challenge) (1) The decision on an application for challenge shall be determined by a ruling of the collegiate body of the court to which the challenged judge belongs.

(2) The judge who has been challenged shall not participate in the decision referred to in the preceding paragraph.

(3) Where the court to which the challenged judge belongs does not constitute a collegiate body, the next immediate higher court shall decide it.

Article 22 (Application for Challenge and Suspension of Proceedings) Where an application for challenge has been filed, the proceedings therefor shall be suspended except as provided in Article 20 (1): Provided, That this shall not apply in case of urgency.

Article 23 (Dismissal of Application for Challenge and Immediate Complaint) (1) An immediate complaint may be filed against a ruling by which an application for challenge is dismissed.

(2) The immediate complaint to a ruling on dismissal under Article 20 (1) may not suspend the execution of trial. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

Article 24 (Causes for Refraining, etc.) (1) Where a judge considers that there is any cause which falls under Article 18, he/she shall refrain from passing on the matter.

(2) An application for refraining shall be made in writing with the court to which a judge belongs.

(3) Article 21 shall apply mutatis mutandis to the application for refraining.

Article 25 (Exclusion, Challenge, and Refraining of Court Officials) (1) Except as provided in subparagraph 7 of Article 17, the provisions of this Chapter shall apply mutatis mutandis to court administrative officers and clerks in Grades Ⅳ through Ⅶ (hereinafter referred to as "court officials"), and interpreters. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The ruling on challenges against court officials and interpreters under the preceding paragraph shall be rendered by the court to which they belong: Provided, That a ruling under Article 20 (1) shall be

rendered by a judge of a court to which such challenged person belongs. <Amended by Act No. 8496, Jun. 1, 2007>

## CHAPTER III REPRESENTATION AND ASSISTANCE FOR ACTS OF LITIGATION

### Article 26 (Persons Devoid of Mental Capacity and Representation for Acts of Litigations)

In a case involving a criminal offense to which Articles 9 through 11 of the Criminal Act do not apply and the criminal defendant or the criminal suspect is devoid of mental capacity, he/she shall be represented by his/her legal representative in regard of acts of litigation. <Amended by Act No. 8496, Jun. 1, 2007>

**Article 27 (Juristic Persons and Representation for Acts of Litigation)** (1) When the criminal defendant or the criminal suspect is a juristic person, it shall be represented by its representative in regard of acts of litigation.

(2) Even when a corporation is represented by two or more persons jointly, it shall be represented by each of them severally in respect of acts of litigation.

**Article 28 (Special Agents for Acts of Litigation)** (1) When there is no person to act for, or to represent, the criminal defendant in accordance with the provisions of the preceding two Articles, a special agent shall be appointed by the court ex officio or upon request of a prosecutor, and where there is no person to act for, or to represent, the criminal suspect, a special agent shall be appointed by the court upon request of a prosecutor or any interested person.

(2) A special agent shall perform his/her duties until there is another person to pursue the acts of litigation as representative for or on behalf of the criminal defendant or the criminal suspect.

**Article 29 (Assistants)** (1) The legal representative, the spouse, a lineal relative, or a sibling of a criminal defendant or a criminal suspect may act as his/her assistant. <Amended by Act No. 7427, Mar. 31, 2005>

(2) Where no person capable of acting as an assistant exists or where a person is unable to act as an assistant due to disability, etc., a person who has a reliable relationship with a criminal defendant or a criminal suspect may act as his/her assistant. <Newly Inserted by Act No. 13454, Jul. 31, 2015>

(3) A person who intends to act as an assistant shall file a report on his/her intention with the competent court at each level. <Amended by Act No. 8496, Jun. 1, 2007>

(4) An assistant may independently perform acts of litigation which do not go against the express will of the criminal defendant or the criminal suspect: Provided, That the forging shall not apply where otherwise provided in Acts.

## CHAPTER IV DEFENSE

**Article 30 (Persons Entitled to Appoint Defense Counsel)** (1) A criminal defendant or a criminal suspect may appoint a defense counsel.

(2) The legal representative, the spouse, a lineal relative, or a sibling of a criminal defendant or a criminal suspect may independently appoint a defense counsel. <Amended by Act No. 7427, Mar. 31, 2005>

### Article 31 (Qualifications for Defense Counsel and Special Defense Counsel)

A counsel shall be appointed from among attorneys-at-law: Provided, That in extraordinary circumstances, any court, other than the Supreme Court, may permit the appointment as a counsel, who is not an attorney-at-law.

Article 32 (Effect of Appointment of Defense Counsel) (1) An appointment of a defense counsel shall be submitted in each instance of court in writing under the name and seal of the defense counsel.

(2) An appointment of a defense counsel effected prior to the institution of public action shall remain in force in the first instance.

Article 32-2 (Lead Defense Counsel) (1) Where there are two or more defense counsels, the presiding judge may designate a lead defense counsel upon the application of the criminal defendant, the criminal suspect, or the counsel and may revoke or change such designation.

(2) Where no application under paragraph (1) is filed, the presiding judge may designate a lead defense counsel ex officio and may revoke or change such designation.

(3) The total number of lead defense counsels shall not exceed three.

(4) Notice or service of documents to a lead defense counsel shall be binding upon all the counsel.

(5) Paragraphs (1) through (4) shall apply mutatis mutandis where there are two or more defense counsels for the criminal suspect and a prosecutor designates a lead defense counsel.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 33 (Court-Appointed Defense Counsel) (1) In any of the following cases, if no defense counsel is available, the court shall appoint a defense counsel ex officio:

1. When the criminal defendant is placed under detention;
2. When the criminal defendant is a minor;
3. When the criminal defendant is 70 years of age or over;
4. When the criminal defendant is deaf and dumb;
5. When the criminal defendant is suspected of having a mental disorder;
6. When the criminal defendant is indicted for a case punishable with death penalty or imprisonment, with or without labor, for an indefinite term or for a minimum term of not less than three years.

(2) Where the criminal defendant is unable to appoint a defense counsel because of poverty or for any other reason, the court shall appoint a defense counsel if the criminal defendant requests.

(3) When the court deems it necessary to protect the rights considering the age, intelligence and level, etc. of education of the criminal defendant, it shall appoint a defense counsel within the scope that does not go against the explicit intention of the criminal defendant.

[This Article Wholly Amended by Act No. 7965, Jul. 19, 2006]

Article 34 (Interview, Communication and Medical Examination and Treatment with Criminal Defendant or Criminal Suspect)

The defense counsel or a person who desires to be a defense counsel may have an interview with the criminal defendant or the criminal suspect who is placed under physical restraint, may deliver or receive any documents or things and may have any doctor examine and treat the criminal defendant or the criminal suspect.

Article 35 (Inspection or Copying of Documents or Evidential Materials) (1) Every criminal defendant and his/her defence counsel shall have a right to inspect or make a copy of any related document or evidential material for his/her case pending in a court. <Amended by Act No. 14179, May 29, 2016>

(2) The legal representative of a criminal defendant, a special agent under Article 28, an assistant

under Article 29, or the spouse, a lineal relative, or a sibling of a criminal defendant, who files a letter of attorney and a document certifying his/her status, shall also have the right under paragraph (1).

(3) Where it is feared to seriously harm the security of life or body of a party involved in the case, including a victim or a witness, the presiding judge may take protective measures before the inspection or copying referred to in paragraphs (1) and (2) so that the personal information, such as name, etc. of a party involved in the case, shall not be disclosed. <Newly Inserted by Act No. 14179, May 29, 2016>

(4) The method, procedure, and other necessary matters for the protection of personal information under paragraph (3) shall be prescribed by the Supreme Court Regulations. <Newly Inserted by Act No. 14179, May 29, 2016>

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 36 (Independent Acts of Procedure by Defense Counsel)

Any defense counsel may undertake acts of litigation independently in his/her name: Provided, That the forging shall not apply where otherwise provided in Acts.

## CHAPTER V DECISION

Article 37 (Judgment, Ruling, and Order) (1) A judgment shall be rendered on the basis of oral proceedings, except as otherwise provided in Acts.

(2) A ruling or an order shall not necessarily be based upon oral proceedings.

(3) In making a ruling or order, the court may, whenever necessary, make an examination of facts.

(4) The examination referred to in the preceding paragraph may be assigned to a member of the relevant collegiate court, or a judge of another district court may be requisitioned.

Article 38 (Form of Written Decisions)

In regard to the decision, the document of decision shall be prepared by a judge: Provided, That where any ruling or order is notified, it may be made by entering it in a protocol alone instead of preparing a written decision.

Article 39 (Reasons for Decision)

A decision shall state the reasons on which it is based: Provided, That this shall not apply where a ruling or order which is subject to no appeal.

Article 40 (Contents of Written Decisions) (1) The name, age, occupation and address of the person upon whom the decision is made shall be entered in the written decision, except as otherwise provided in Acts.

(2) Where a person upon whom the decision is made is a corporation, the name and location of its office shall be stated.

(3) The respective official position and name of a prosecutor who has filed the indictment and a prosecutor who has participated in the trial, and the name of a defense counsel, shall be stated in the written judgment. <Amended by Act No. 10864, Jul. 18, 2011>

Article 41 (Signature, etc. in Written Decisions) (1) The written decision shall be signed and sealed by the judges who have participated in the decision.

(2) Where the presiding judge is unable to sign and seal a decision, another judge shall sign and seal the decision together with a statement as to the reason, and where an associate judge is unable to sign and seal a decision, the presiding judge shall sign and seal the decision and state the reason for so signing.

(3) The written decision, excluding a written judgment or other written decisions determined by the Supreme Court Regulations, may be signed and sealed instead of the signature and seal referred to in paragraphs (1) and (2). <Newly Inserted by Act No. 5054, Dec. 29, 1995>

### Article 42 (Methods of Pronouncement or Notification of Decision)

The pronouncement or notification of a decision in a trial court shall be made by the document of decision, and in other cases it shall be made by means of delivery of a copy of the written of decision or by any other appropriate method: Provided, That the same shall not apply where otherwise provided in Acts.

### Article 43 (Idem)

The pronouncement or notification of a decision shall be made by the presiding judge. In pronouncing a judgment, he/she shall read the text and explain the gist of the reasons.

### Article 44 (Cases Requiring Direction of Prosecutor for its Execution)

In regard to a decision which requires the direction of a prosecutor for its execution, the copy of or extracts from the written decision or the protocol in which the decision is entered shall be forwarded to the prosecutor within ten days from the date of pronouncement or notification of a decision: Provided, That the same shall not apply where otherwise provided in Acts. <Amended by Act No. 705, Sep. 1, 1961>

### Article 45 (Request for Copy or Extracts of Document of Decision)

The criminal defendant or any other person concerned in the case may, at his/her own cost, request the delivery of the transcript or the abridged copy of the written decision or of the protocol in which the decision is entered.

### Article 46 (Formation of Copy or Extracts of Written Decision)

The copy of or extracts from the written of decision or the protocol in which the decision is entered shall be made on the basis of the original: Provided, That under unavoidable circumstances, it may be made according to a copy thereof.

## CHAPTER VI DOCUMENTS

### Article 47 (Non-Disclosure of Documents Relating to Proceedings)

No documents relating to proceedings shall be made public prior to the opening of trial except for the requirements of public interest or other probable cause.

**Article 48 (Methods of Formation of Protocol)** (1) Where the criminal defendant, the criminal suspect, a witness, an expert witness, an interpreter, or a translator is examined, the court officials who have participated therein shall prepare the protocol. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The protocol shall contain the following:

1. The statement of the criminal defendant, the criminal suspect, a witness, an expert witness, an interpreter, or a translator;
2. Where a witness, expert witness, interpreter, or translator has not been sworn, the reason therefor.

(3) The protocol shall be read aloud to a person who has made a statement or inspected by him/her, and the veracity of the contents of the statement shall be confirmed by him/her.

(4) If a person who has made a statement requests any change, deletion, or alteration, such statement shall be entered in the protocol.

(5) Where the prosecutor, the criminal defendant, criminal suspect or defense counsel who has participated in an examination, raises an objection to the accuracy of protocol, the gist of such statement shall be entered in the protocol.

(6) In the case of the preceding paragraph, the presiding judge or the judge who has participated in the examination may have an opinion as to the statement to be entered.

(7) The party who has testified shall sign and seal the protocol after stamping a seal across a leaf and the contiguous leaf. When a party who has testified refuses to sign and seal the protocol, the reason shall be entered therein.

Article 49 (Protocol of Inspection of Evidence, etc.) (1) In respect to inspection of evidence, seizure, or search, a protocol shall be prepared.

(2) A protocol of inspection of evidence may be annexed to a drawing or photograph in order to clarify the existing state of the object inspected.

(3) The protocol concerning a seizure shall contain a statement as to the kinds, characteristics in appearance, and quantity of goods seized.

Article 50 (Contents of Various Protocols)

The protocols under the preceding two Articles shall contain the date, time, and place of investigation or disposition and shall bear the names printed and the seals affixed thereon or the signatures written by the person who has executed the investigation or disposition and the court officials who have participated therein: Provided, That where a court has made the investigation or disposition on any hearing other than a trial, the relevant protocol shall bear the names printed and the seals affixed thereon or the signatures thereon by the presiding judge or judge and the court officials who have participated therein. <Amended by Act No. 8496, Jun. 1, 2007>

Article 51 (Contents of Protocol of Trial) (1) A protocol of trial shall be prepared by court officials who have participated in the legal proceedings on the date of trial. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The protocol of trial shall contain all the procedure of the trial including the following matters: <Amended by Act No. 8496, Jun. 1, 2007>

1. Date and time of trial and the name of the court;
2. Positions and names of judges, prosecutor, and court officials;
3. Names of the criminal defendant, legal representative, representative, defense counsel, assistant, and interpreter;
4. Appearance or non-appearance of the criminal defendant;
5. Whether the trial was open to the public or not and the reason why it was held in closed session if it was not open to the public;
6. Reading of a statement of the facts charged or the written indictment changed;
7. The fact that the criminal defendant was given an opportunity of making a statement which is necessary to protect his/her rights, and the facts which he/she has stated;
8. Matters listed in Article 48 (2);
9. Documentary and real evidence examined, and the method of examination, when an investigation of evidence is made;
10. Inspection or seizure of evidence which was done in court;
11. The gist of oral proceedings;
12. Matters ordered to be entered by the presiding judge or matters permitted to be entered by the

presiding judge, at the request of a person involved in the litigation;

13. The fact that the final opportunity of making a statement was given to the criminal defendant or his/her defense counsel, and the facts which he/she has stated;

14. The fact that judgment or decision was pronounced or declared.

Article 52 (Exception in Preparation of Protocol of Trial)

Article 48 (3) through (7) shall not apply to the protocol of trial and the record of the examination of a witness on a date other than the date of trial: Provided, That a statement made by a person shall be read to him/her upon his/her request, and if any change, deletion, or alteration thereof is demanded, it shall be recorded therein. <Amended by Act No. 5054, Dec. 29, 1995>

Article 53 (Signature on Protocol of Trial) (1) The protocol of trial shall bear the names printed and the seals affixed thereon or the signatures written by the presiding judge and the court officials who have participated in it. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Where the presiding judge is unable to print his/her name and affix his/her seal or write his/her signature on the protocol, another judge shall print his/her name and affix his/her seal or write his/her signature thereon with an additional note explaining the reason therefor, but if there is no judge who is able to print his/her name and affix his/her seal or write his/her signature on the protocol, then any of the court officials who have participated in the trial shall print his/her name and affix his/her seal or write his/her signature thereon with an additional note explaining the reason therefor. <Amended by Act No. 8496, Jun. 1, 2007>

(3) Where any of the court officials is unable to print his/her name and affix his/her seal or write his/her signature on the protocol, the presiding judge or another judge shall print his/her name and affix his/her seal or write his/her signature on the protocol with an additional note explaining the reason therefor. <Amended by Act No. 8496, Jun. 1, 2007>

Article 54 (Preparation of Protocol of Trial) (1) The protocol of trial shall be prepared promptly after the date of trial. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The gist of major facts dealt with on a preceding trial, as recorded in the protocol, shall be informed on the succeeding trial: Provided, That such gist may be informed without the protocol, if the protocol for the preceding trial has not been prepared by the date of trial of next round. <Amended by Act No. 8496, Jun. 1, 2007>

(3) The prosecutor, the criminal defendant, or his/her defense counsel may make a motion to alter a description in the protocol of trial or raise an objection. <Amended by Act No. 8496, Jun. 1, 2007>

(4) If there is any motion or objection under paragraph (3), a record describing the purport of such motion or objection and the presiding judge's opinion thereon shall be prepared and attached to the protocol of trial for the case. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

Article 55 (Criminal Defendant's Right to Inspect Protocol of Trial) (1) The criminal defendant shall have a right to demand to allow him/her to inspect and make copies of the protocol of trial. <Amended by Act No. 5054, Dec. 29, 1995>

(2) Where the criminal defendant is unable to read the protocol of trial, he/she may demand the protocol of trial to be read to him/her. <Amended by Act No. 5054, Dec. 29, 1995>

(3) If there has been no acceptance as to the demand of the preceding two paragraphs, the protocol of trial may not be used as an evidence of guilty.

Article 56 (Probative Value of Protocol of Trial)

Proceedings at hearings of a trial which are written in the protocol can be proved only by such protocol.

Article 56-2 (Stenography and Audio or Video Recording in Trial Court) (1) Except in extraordinary circumstances, every court shall, upon a motion from a prosecutor, a criminal defendant or a defense counsel, assign a stenographer to take stenographic notes of a hearing in the court, in whole or in part, or make audio or video records (including those with sound recorded; hereinafter the same shall apply) of a hearing by using an audio or video recording system and may also order ex officio to take such notes or make such recording, if deemed necessary.

(2) Each court shall keep stenographic notes or audio or video records separate from the protocol of the trial.

(3) Any prosecutor, criminal defendant, or his/her defense counsel may request the court to furnish him/her with copies of the stenographic notes, audio or video records under paragraph (2), by bearing the expense for such copying.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 57 (Documents of Public Officials) (1) Each document prepared by a public official shall contain the date of preparation, the name of the office to which he/she belongs and shall bear the name of the public official printed by him/her with his/her seal affixed thereon or a signature signed by him/her, except as otherwise provided in Acts. <Amended by Act No. 8496, Jun. 1, 2007>

(2) A document shall bear a seal stamped across a leaf and the contiguous leaf, or measures equivalent thereto shall be taken. <Amended by Act No. 5054, Dec. 29, 1995>

(3) Deleted. <by Act No. 8496, Jun. 1, 2007>

Article 58 (Documents of Public Officials) (1) When a public official prepares a document, he/she may not modify any letter in it.

(2) When any insertion, elimination, or entry in the original is made, a seal shall be affixed thereto specifying the change. The deleted words shall be left clear enough to be readable.

Article 59 (Documents made by Persons Other than Public Officials)

When a person other than a public official prepares a document, he/she shall insert the date, and sign and affix his/her seal thereto. Where he/she has no seal, he/she shall use his/her finger prints.

Article 59-2 (Inspection and Copying of Finalized Litigation Records) (1) Any person may file an application for inspection or copying of records of trial of a case for which all the proceedings have been finalized with the competent prosecutors' office for the purpose of remedies for his/her rights, academic research, or public interest.

(2) A prosecutor may place a restriction on inspection or copying of records of trial, completely or partially, if the case involved falls under any of the following: Provided, That the foregoing shall not apply if it is deemed that there is a justifiable ground for a person involved in the litigation or an interested third party inspecting or copying the record:

1. If the trial was not open to the public;
2. If the disclosure of the records of trial is likely to seriously undermine the national security, good public morals, maintenance of public order, or public welfare;
3. If the disclosure of the records of trial is likely to seriously defame a party involved in the case, harm such party's privacy or security of life or body of such party, or impair the peace in such party's life;

4. If the disclosure of the records of trial is likely to facilitate the destruction of evidence or escape of a person who is an accomplice or to have significant influences on the trial of the relevant case;
5. If the disclosure of the records of trial is likely to cause a serious obstacle to the improvement or rehabilitation of a criminal defendant involved;
6. If the disclosure of the records of trial is likely to seriously infringe on the trade secret (referring to the trade secret defined in subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act) of a party involved in the case;
7. If the relevant person involved in the litigation does not consent to the disclosure of the records of trial.

(3) When a prosecutor places a restriction on inspection or copying of records of trial pursuant paragraph (2), he/she shall notify the applicant of the restriction, clearly stating the reasons therefor.
(4) If deemed necessary for the preservation of the records of trial, a prosecutor may furnish a person with a certified copy of the records of trial for inspection or copying: Provided, That the foregoing shall not apply where it is required to inspect or copy the original record.
(5) A person who inspected or made a copy of records of trial shall not commit any act of undermining public order or good public morals, interfering with the improvement or rehabilitation of the criminal defendant involved, defaming a party involved in the case, or impairing the peace of such party's life, by using the information acquired from such inspection or copying.
(6) If a person who filed an application for inspection or copying of a litigation record under paragraph (1) is dissatisfied with a disposition taken by the prosecutor on such inspection or copying, he/she may file an application for revocation of or alteration to the disposition with the competent court corresponding with the prosecutors' office in which the relevant record is preserved.
(7) Articles 418 and 419 shall apply mutatis mutandis to the application for appeal under paragraph (6).
[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 59-3 (Inspection and Copying of Final Written Judgement, etc.) (1) Any person may inspect and copy (including electronic methods through the Internet and other electronic data processing system; hereafter the same shall apply in this Article) the written judgment for a case on which a final judgement has been made or a copy thereof; the list of evidences or a copy thereof; or the name or list of other documents or articles or information corresponding thereto, submitted to a court by the relevant prosecutor, criminal defendant, or his/her defense counsel (hereinafter referred to as "written judgment, etc."); at the court which keeps the relevant written judgment, etc.: Provided, That the inspection and copying of such written judgment, etc. may be limited in any of the following cases:
1. Where the trial was not open to the public;
2. Where the case relates to a juvenile defined in Article 2 of the Juvenile Act;
3. Where such inspection and copying are likely to enable a person in accomplice relations, etc. to destroy evidence or escape easily or to have significant effects on the trial of the relevant case;
4. Where it is obvious that such inspection and copying are likely to seriously undermine the national security;
5. Where any ground referred to in Article 59-2 (2) 3 or 6 exists: Provided, That this is limited to cases where a request is made by a person involved in the litigation.

(2) Court officials or other court public officials shall take protective measures prescribed by the

Supreme Court Regulations prior to the inspection and copying under paragraph (1) to ensure that personal information, including the name entered in the written judgment, etc., will not be disclosed.

(3) Court officials or other court public officials who have taken measures to protect the personal information pursuant to paragraph (2) shall not assume civil or criminal responsibilities for the inspection and copying under paragraph (1) unless such responsibilities fall on them due to their intention or gross negligence.

(4) Notwithstanding the proviso to paragraph (1), a person involved in the litigation or an interested third party who has justifiable grounds for the inspection and copying may file an application for inspection and copying of the written judgment, etc. with a court official, etc. or other court public official at the court under the body of paragraph (1). In such cases, where he/she is dissatisfied with a disposition taken by the court official, etc. or other court public official on the inspection and copying, he/she may file an application for revocation of or alteration to the disposition with the court under the main body of paragraph (1).

(5) Articles 417 and 418 shall apply mutatis mutandis to the application for appeal under paragraph (4).

(6) Methods and procedures for inspection and copying of the written judgment, etc., methods and procedures for protective actions for personal information, and other necessary matters shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 10864, Jul. 18, 2011]

## CHAPTER VII SERVICE

Article 60 (Filing of Reports Subject to Service) (1) Where the criminal defendant, legal representative, representative, defense counsel or assistant has no dwelling or office where documents can be served, situated in the jurisdiction of the court, he/she shall appoint a person who has a dwelling or office situated in the jurisdiction of the court as his/her receiver and shall submit a written report signed by him/her and the receiver.

(2) With regard to the service, the receiver shall be regarded as the principal and his/her dwelling or office shall be considered as the principal's dwelling or office.

(3) The appointment of the receiver shall have effect for courts of all instances located in the same jurisdiction.

(4) The provisions of the preceding three paragraphs shall not apply to those who are under physical detention.

Article 61 (Service by Mail) (1) Where a person who is required to report the dwelling or business office or the appointment of a receiver fails to do so, documents may be served by court officials by mail or by any other suitable method. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Where the document is served by mail, it shall be considered as served when the document is delivered.

Article 62 (Service to Prosecutor)

Service of documents to a prosecutor shall be made to the relevant prosecutors’ office to which he/she belongs.

Article 63 (Cause of Service by Public Notice) (1) When the dwelling, office, or present residence of the criminal defendant is unknown, the service may be made by public notice.

(2) The provisions of the preceding paragraph shall also apply when the service cannot be made by

any other means in cases where the criminal defendant is present in a place over which the court has no territorial jurisdiction.

Article 64 (Methods of Service by Public Notice) (1) Service by public notice may be made only when a court so orders in accordance with the Supreme Court Regulations.

(2) Service by public notice shall be made by court officials by preserving the documents to be served and by putting a reason therefor on the court bulletin board to show it to the public. <Amended by Act No. 705, Sep. 1, 1961; Act No. 8496, Jun. 1, 2007>

(3) The court may order publication of the reason referred to in the preceding paragraph in the Official Gazette or newspapers. <Amended by Act No. 705, Sep. 1, 1961>

(4) The first service by public notice shall become effective two weeks after the date of the public notice referred to in paragraph (2): Provided, That any second or subsequent service by public notice shall become effective five days after the date of public notice. <Amended by Act No. 705, Sep. 1, 1961>

Article 65 (Application Mutatis Mutandis of the Civil Procedure Act)

The Civil Procedure Act shall apply mutatis mutandis to service of documents, except as otherwise provided in Acts. <Amended by Act No. 8496, Jun. 1, 2007>

## CHAPTER VIII PERIOD

Article 66 (Calculation of Period) (1) In calculation of periods, those that are calculated by the hour shall be to run immediately, while in the calculation of days, months or years, the first day shall not be included: Provided, That the first day of a period of prescription and detention shall be counted as one day irrespective of the number of hours involved.

(2) A fixed period by year or month shall be calculated in accordance with the calendar.

(3) If the last day of a period falls on a public holiday or a Saturday, it shall not be included in the calculation: Provided, That this shall not apply to the case of a period of prescription and detention. <Amended by Act No. 8730, Dec. 21, 2007>

Article 67 (Extension of Legal Period)

A legal period may be extended as prescribed by the Supreme Court Regulations in accordance with the distance between the place of dwelling or office of the person who is required to comply with procedural acts and the location of the court or the prosecutors’ office, and with the extent of inconvenience in transportation and communication.

[This Article Wholly Amended by Act No. 5054, Dec. 29, 1995]

## CHAPTER IX SUMMONS AND DETENTION OF CRIMINAL DEFENDANT

Article 68 (Summons)

A court may summon a criminal defendant.

Article 69 (Definition of Detention)

For the purpose of this Act, detention shall include custody and confinement.

Article 70 (Grounds for Detention) (1) The court may detain the criminal defendant when a probable cause exists to suspect that he/she has committed a crime and falls under any of the following: <Amended by Act No. 5054, Dec. 29, 1995>

1. When he/she has no fixed dwelling;
2. When there are reasonable grounds enough to suspect that he/she may destroy evidence;

3. When he/she flees or there are reasonable grounds enough to suspect that he/she may flee.

(2) Every court shall take into consideration the seriousness of a crime, risk of repetition of the crime, anticipated harm to the victim, important witnesses, or such, in examining grounds for detention under paragraph (1). <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(3) With regard to a case punishable with a fine of a maximum amount not exceeding 500,000 won, misdemeanor imprisonment, or a minor fine, the criminal defendant shall not be subject to detention, except as provided in paragraph (1) 1. <Amended by Act No. 2450, Jan. 25, 1973; Act No. 5054, Dec. 1995>

Article 70(2), 71, 75, the main body of paragraph (1) and paragraph (3) of Article 81, Articles 82, 83, 85 through 87, 89 through 91, 93, and 101 (1), the main body of Article 102 (2) (excluding the part concerning the revocation of release on bail), and Article 200-5 shall apply mutatis mutandis to detention of a criminal suspect by a prosecutor or a senior judicial police officer. <Amended by Act No. 8730, Dec. 21, 2007>

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

## Article 71 (Effect of Custody)

The criminal defendant who has been taken into custody shall be released within 24 hours from the time he/she was taken into custody when it is determined to be unnecessary to detain him/her.

## Article 71-2 (Confinement after Taking Criminal Defendant into Custody)

If deemed necessary to confine a criminal defendant taken into custody, a court may confine the defendant in a prison, a detention house, or a detention room in a police station. In such cases, the confinement period may not exceed 24 hours from the time of being taken into custody.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

## Article 72 (Detention and Notice of Grounds)

The criminal defendant shall not be placed under detention, until he/she has been informed of the gist of facts constituting the offense, of the grounds for detention, and of the fact that he/she may select a defense counsel, and until the court has given him/her the opportunity to defend himself/herself: Provided, That the foregoing shall not apply to a fugitive criminal defendant. <Amended by Act No. 3955, Nov. 28, 1987; Act No. 8496, Jun. 1, 2007>

## Article 72-2 (Assigned Judge)

The court may require a judge of a collegiate division to implement the procedure under Article 72.

[This Article Newly Inserted by Act No. 12784, Oct. 15, 2014]

## Article 73 (Issuance of Warrant)

The summons of a criminal defendant shall be effected by issuing a summons, and the custody or confinement shall be effected by a warrant of detention.

## Article 74 (Form of Summons)

A summons shall contain the name and address of the criminal defendant; the name of the crime; the date, time, and place for appearance; a statement that a warrant of detention may be issued if there is apprehension to suspect he/she may flee where he/she fails to appear without good reason; and the name and seal of the presiding judge or commissioned judge issuing the writ. <Amended by Act No. 5054, Dec. 29, 1995>

**Article 75 (Form of Warrant of Detention)** (1) A warrant of detention shall contain the name and address of the criminal defendant, the name of the crime, the gist of the facts charged, the place to bring or confine the defendant, the date of issue, the effective period of the warrant, a statement that the warrant shall not be executed after the lapse of such period whence it shall be returned to the court of issuance, and the signature and seal of the presiding judge or commissioned judge issuing the warrant.

(2) Where the name of the criminal defendant is uncertain, he/she may be identified by the description of his/her countenance, build, or other features identifying him/her.

(3) Where the dwelling of the criminal defendant is uncertain, an entry for the dwelling may be omitted.

Article 76 (Service of Summons) (1) A summons shall be served.

(2) If the criminal defendant submits a document stating that he/she will appear on a date scheduled for hearing, or if the court orders the criminal defendant orally, who appears on a date for hearing, to appear on the next date for hearing, it shall have the same effect as service of a summons.

(3) Where his/her appearance has been orally ordered pursuant to the preceding paragraph, the gist thereof shall be entered in the protocol.

(4) The criminal defendant who is confined in a prison or detention house may be summoned by serving the notice of summons to a correctional officer. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 8496, Jun. 1, 2007>

(5) When the criminal defendant has received a notice of summons from a correctional officer, the notice shall have the same effect as the service of a summons. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 8496, Jun. 1, 2007>

Article 77 (Requisition of Detention) (1) A court may requisition a judge of a district court of the place where the criminal defendant is presently located to detain the criminal defendant.

(2) Where the criminal defendant is not present in the territorial jurisdiction of the requisitioned judge, such judge may in turn requisition a judge of a district court of the place where the criminal defendant is located.

(3) The requisitioned judge shall issue a warrant of detention.

(4) Article 75 shall apply mutatis mutandis to the warrant of detention provided in the preceding paragraph.

Article 78 (Procedures for Detention by Requisition) (1) The judge who has issued a warrant of detention by requisition in the case of the preceding Article shall, within 24 hours from the time when the criminal defendant is brought in, make an inquiry as to whether any mistake has been made as to his/her identity.

(2) If there has been no mistake as to the identity of the criminal defendant, he/she shall be promptly delivered to the designated court.

Article 79 (Order of Appearance or Accompanying)

The court may, where necessary, order the defendant to appear or be accompanied to the designated place.

Article 80 (Urgent Measures)

In case of urgency, a presiding judge may take measures provided in Articles 68 through 71, 71-2, 73, 76, and 77 and the preceding Article, or may require a member of the collegiate court to take such measures. <Amended by Act No. 12784, Oct. 15, 2014>

Article 81 (Execution of Warrant of Detention) (1) A warrant of detention shall be executed by a judicial police officer under the direction of a prosecutor: Provided, That in case of urgency, the execution may be directed by a presiding judge, a commissioned judge, or a requisitioned judge.

(2) In the case of the proviso to paragraph (1), an order to execute a warrant of detention may be issued to court officials. In such cases, the court officials may, if necessary, demand judicial police officers, correctional officers, or court guards, to provide assistance or may execute it outside the jurisdiction. <Amended by Act No. 8496, Jun. 1, 2007>

(3) A warrant of detention issued against the criminal defendant who is in a prison or detention house shall be executed by a correctional officer under the direction of a prosecutor. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 8496, Jun. 1, 2007>

Article 82 (Preparation of Several Warrants of Detention) (1) The warrant of detention against the criminal defendant may be issued in plurality to several judicial police officers.

(2) In the case of the preceding paragraph, the grounds for detention shall be entered in each warrant of detention.

Article 83 (Execution and Requisition of Warrant of Detention outside Jurisdiction) (1) A prosecutor may, where necessary, conduct execution of a warrant of detention outside the jurisdiction or may request it to be conducted by a prosecutor who is in the competent jurisdiction.

(2) A judicial police officer may, where necessary, execute a warrant of detention outside the jurisdiction or may request it to be executed by a judicial police officer who is in the competent jurisdiction.

Article 84 (Request for Investigation to Chief of High Prosecutors’ Office or District Prosecutors’ Office)

When the present location of the criminal defendant is uncertain, a presiding judge may commission the chief of the relevant high prosecutors’ office or district prosecutors’ office to conduct an investigation and execute a warrant of detention. <Amended by Act No. 7078, Jan. 20, 2004>

Article 85 (Procedures for Execution of Warrant of Detention) (1) In executing a warrant of detention, it shall be shown to the criminal defendant without fail, who shall be promptly taken to court designated or other place.

(2) In executing a warrant of detention referred to in Article 77 (3), the criminal defendant shall be brought before the judge who has issued the warrant.

(3) In case of urgency, even if the warrant of detention is not in hand, the warrant may be executed after the criminal defendant has been informed of the gist of the facts charged and of the fact that the warrant has been issued.

(4) Upon completion of the execution provided in the preceding paragraph, the warrant of detention shall be shown as soon as possible.

Article 86 (Provisional Detention of Defendant under Guard)

Where the criminal defendant against whom a warrant of detention has been executed is to be kept under guard, he/she may, if necessary, be detained provisionally in the nearest prison or detention house. <Amended by Act No. 1500, Dec. 13, 1963>

Article 87 (Notice of Detention) (1) When the criminal defendant is detained, his/her defense counsel shall be notified of the gist of facts concerning the name of offense, the time and place of detention, the gist of charge, and the cause for detention, and if the criminal defendant does not have a defense counsel, the person designated by the criminal defendant from among the persons referred to in Article 30 (2) shall be informed of the aforementioned facts of the case and of the facts that he/she may select a defense counsel. <Amended by Act No. 3955, Nov. 28, 1987; Act No. 5054, Dec. 29, 1995>

(2) The notice provided in paragraph (1) shall be made in writing without delay. <Amended by Act No. 3955, Nov. 28, 1987>

Article 88 (Detention and Notice of Facts Charged, etc.)

When the criminal defendant is detained, he/she shall immediately be informed of the gist of the facts charged and of the facts that he/she may select a defense counsel.

Article 89 (Interview with Detained Criminal Defendant and Medical Examination)

The criminal defendant who is under detention may, insofar as Acts permit, interview with any other persons, deliver to or receive from them documents or other things, and also take medical treatment from a doctor.

Article 90 (Application for Defense Counsel) (1) The criminal defendant who has been detained may apply to the court, the warden of a prison or detention house, or his/her agent, for the selection of a defense counsel after designating an attorney-at-law.

(2) The court, the warden of a prison or detention house, or his/her agent who has received such application as referred to in the preceding paragraph shall promptly give notice of such fact to the attorney-at-law designated by the criminal defendant. <Amended by Act No. 1500, Dec. 13, 1963>

Article 91 (Interview with Persons Other than Defense Counsel)

When a probable cause exists to suspect that the criminal defendant under detention may flee or destroy evidence, a court may, ex officio or upon request of a prosecutor, forbid him/her to interview with persons other than those referred to in Article 34, may examine documents or other things which he/she may receive from or deliver to such persons, may prevent him/her from delivering or receiving such things, or may seize such things, by its ruling: Provided, That the receipt and delivery of clothing, food, or medical supplies shall not be forbidden nor they shall be seized.

Article 92 (Detention Period and Its Renewal) (1) The period of detention shall be two months. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Notwithstanding paragraph (1), the period of detention may be renewed by a court ruling only twice by two months each time for each grade, if particularly necessary to continue detention: Provided, That it may be renewed three times or less if it is unavoidable and necessary for an appellate court to hold an additional hearing, upon request of a criminal defendant or a defense counsel for the examination on the evidence, or submission of a written statement to supplement the cause of appeal, or for any other reason. <Amended by Act No. 8496, Jun. 1, 2007>

(3) Any period during which the proceedings of a trial is suspended and period for arrest, custody, or confinement before the institution of public trail in accordance with Articles 22, 298 (4), 306 (1) and (2), shall not be added to the computation of the period referred to in paragraphs (1) and (2). <Newly Inserted by Act No. 705, Sep. 1, 1961; Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

Article 93 (Rescission of Detention)

When the grounds for detention have ceased to exist, the court shall rescind the detention by its ruling, ex officio or upon request of a prosecutor, the criminal defendant, his/her defense counsel, or persons specified in Article 30 (2).

Article 94 (Motion for Release on Bail)

A criminal defendant under detention, his/her defense counsel, legal representative, spouse, lineal relative, sibling, family member, cohabitant, or employer may file a motion for release of the criminal defendant on bail with the competent court.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 95 (Compulsory Release on Bail)

When a motion for release on bail has been filed, it shall be allowed except in the following cases: <Amended by Act No. 2653, Dec. 20, 1973; Act No. 5054, Dec. 29, 1995>

1. When the criminal defendant commits an offense punishable with death penalty or imprisonment, with or without labor, for an indefinite term or for a maximum term of more than ten years;
2. When the criminal defendant is a repeat offender or commits habitual crimes;
3. When there are reasonable grounds to suspect that the criminal defendant has destroyed or may destroy evidences;
4. When there are reasonable grounds to suspect that the criminal defendant flees or is likely to flee;
5. When the dwelling of the criminal defendant is uncertain;
6. When there are reasonable grounds to suspect that the criminal defendant does or may do harm to life, body, or property of a victim, a person who is deemed to know the facts necessary for the trial of the case, or a relative thereof.

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 96 (Voluntary Release on Bail)

When a probable cause exists, a court may permit release on bail by its ruling, ex officio or upon request of those who are specified in Article 94, notwithstanding Article 95. <Amended by Act No. 5054, Dec. 29, 1995>

Article 97 (Cancellation of Release on Bail and Detention and Opinions of Prosecutors) (1) The presiding judge shall seek an opinion from the prosecutor concerned before he/she makes a ruling on whether to release on bail. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The preceding paragraph shall also apply to a ruling on cancellation of detention, except for the cancellation upon a motion of prosecutors and emergency situation. <Amended by Act No. 5054, Dec. 29, 1995>

(3) Upon receipt of a request for his/her opinion under paragraphs (1) and (2), the prosecutor concerned shall communicate his/her opinion without delay. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(4) The prosecutor concerned may file an immediate complaint against a ruling to cancel detention. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

<Paragraph (4) amended by Act No. 5054 on December 29, 1995, following the decision on unconstitutionality made by the Constitutional Court on December 23, 1993>

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 98 (Conditions of Release on Bail)

When a court grants a permission for release on bail, it shall put one or more conditions out of the following conditions to the extent as may be necessary and appropriate:

1. The criminal defendant shall submit a letter of undertaking to promise that he/she shall not destroy

evidences and make an appearance before the court at the time and place designated by the court;

2. The criminal defendant shall submit a letter of undertaking to promise that he/she shall pay an amount equivalent to the bail determined by the court;
3. The criminal defendant shall accept measures taken by the court to prevent him/her from escaping by circumscribing his/her dwelling to a place designated by the court or to require him/her to obtain permission from the court if it is necessary to alter such circumscription;
4. The criminal defendant shall not commit any act of doing harm to the life, body, or property of a victim, a person who is believed to know a true fact necessary for the trial of the case, or a relative of such person, nor approach the residence, workplace, or neighborhood of such person;
5. The criminal defendant shall submit a letter of guarantee prepared by any person other than the criminal defendant for assurance of the criminal defendant's appearance;
6. The criminal defendant shall take an oath that he/she would not go abroad without obtaining permission from the court;
7. The criminal defendant shall deposit an amount of money required for recovery of the victim's rights or offer an asset equivalent to such amount as collateral in the manner specified by the court;
8. The criminal defendant or a person designated by the court shall pay the bail or offer an asset as collateral;
9. The criminal defendant shall fulfill other conditions placed by the court as appropriate for assuring of the defendant's appearance.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 99 (Factors to be Considered in Attaching Conditions to Release on Bail) (1) A court shall take the following factors into consideration in attaching the conditions under Article 98:

1. The nature and circumstances of the crime;
2. The probative value of evidence against the defendant;
3. Criminal record, character, background, and financial ability of the criminal defendant;
4. Matters relating to circumstances after committing the crime, such as compensation for victims.

(2) A court may not put any condition that the criminal defendant is unable to fulfill by his/her own efforts or with his/her own assets.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 100 (Procedures for Execution of Release on Bail) (1) A ruling for permitting the release on bail may not be executed unless and until the conditions under subparagraphs 1, 2, 5, 7, and 8 of Article 98 are fulfilled, and a court may, if deemed necessary, make a decision to execute the permission for release on bail only after other conditions, if any, are fulfilled as well. <Amended by Act No. 8496, Jun. 1, 2007>

(2) A court may permit a person other than the person demanding bail to pay the bail money.

(3) A court may permit substitution of bail money with negotiable securities or a guarantee letter submitted by any person other than the criminal defendant. <Amended by Act No. 8496, Jun. 1, 2007>

(4) A statement that the bail money shall be paid on demand shall be entered in the guarantee of the preceding paragraph.

(5) A court may demand an administrative agency or any other organization, public or private, to take

appropriate measures as may be necessary for a criminal defendant who is released by its ruling for release on bail to fulfill the conditions of the release. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

Article 100-2 (Administrative Fines on Appearance Guarantors) (1) If a defendant who was released by a ruling on release on bail under the condition set forth in subparagraph 5 of Article 98 does not make an appearance on a designated date without any good cause, the court may impose an administrative fine not exceeding five million won on the guarantor who assured the criminal defendant's appearance, by its ruling.

(2) An immediate complaint may be filed against a ruling under paragraph (1).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 101 (Suspension of Execution of Detention) (1) When a probable cause exists, a court may, by its ruling, suspend the execution of detention by placing the criminal defendant under the supervision of relatives, protective institutions, and/or other proper persons, or restricting area of his/her dwelling.

(2) Before making the ruling referred to in paragraph (1), the court shall seek opinions from a prosecutor: Provided, That in case of emergency, the same shall not apply.

(3) Deleted. <by Act No. 13454, Jul. 31, 2015>

<This paragraph deleted by Act No. 13454 on Jul. 31, 2015, following the decision on unconstitutionality made by the Constitutional Court on June 27, 2012>

(4) If a motion for release is made for a member of the National Assembly who is detained pursuant to Article 44 of the Constitution of the Republic of Korea, execution of warrant of detention shall ipso facto be suspended. <Amended by Act No. 3282, Dec. 18, 1980; Act No. 3955, Nov. 28, 1987>

(5) The Prosecutor General who receives the notification of the motion for release referred to in the preceding paragraph, shall immediately direct the release and notify the competent court of the reason therefor.

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 102 (Change of Conditions on Release on Bail and Revocation, etc.) (1) A court may, ex officio or upon a motion from a person specified in Article 94, amend the conditions of release of a criminal defendant on bail or suspend the performance of the conditions for a certain period of time.

(2) If a criminal defendant comes to fall under any of the following, the court may revoke the release on bail or the suspension of execution of detention, ex officio or upon a motion from the prosecutor: Provided, That the suspension of execution of a detention warrant under Article 101 (4) may not be revoked during the session concerned:

1. If the defendant escaped;
2. If there are grounds enough to believe that the defendant is likely to escape or destroy evidence of the crime;
3. If the defendant did not make an appearance without good cause upon receiving a summons;
4. If the defendant did harm to the life, body, or property of a victim, a person who is believed to know a true fact necessary for the trial of the case, or a relative of such person, or if there are grounds enough to believe that the defendant is likely to do harm to such person;
5. If the defendant breached a condition placed by the court.

(3) If a criminal defendant breaches any condition attached to the lease on bail without good cause, a court may impose an administrative fine not exceeding ten million won on the defendant or may put

the defendant in court-ordered confinement for a maximum period of 20 days by its ruling.

(4) An immediate complaint may be filed against a ruling under paragraph (3).

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 103 (Confiscation of Bail Money) (1) When a court revokes the release of a criminal defendant on bail, it may confiscate all or part of the bail money or collateral by its ruling, ex officio or upon a motion of the prosecutor.

(2) If a criminal defendant who had been released under the condition to pay the bail money or offer an asset as collateral did not make an appearance or escaped upon receiving a summons after he/she had been sentenced to a punishment on account of an identical crime and the sentence was finally affirmed, the court shall, ex officio or upon a motion of the prosecutor, confiscate all or part of the bail money or collateral by its ruling.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 104 (Refund of Bail Money, etc.)

When detention or release on bail is rescinded, or the term of the warrant of detention expires, the bail money or collateral which is not confiscated shall be returned within seven days on demand. <Amended by Act No. 8496, Jun. 1, 2007>

Article 104-2 (Invalidation of Conditions of Release on Bail) (1) When a detention warrant becomes ineffective, the conditions of release on bail shall also become invalid simultaneously.

(2) When the release of a defendant on bail is revoked, the conditions attached thereto shall also become invalid as provided in paragraph (1): Provided, That the condition under subparagraph 8 of Article 98 shall remain effective.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 105 (Appeal and Ruling on Detention)

In regard to a case for which the time for appeal has not expired or in which the appeal is pending, a ruling for renewal of the period of detention, rescission of detention, suspension of execution of detention or release on bail, or rescission of suspension thereof shall be rendered by the lower court so far as the records of trial are filed with the lower court.

## CHAPTER X SEIZURE AND SEARCH

Article 106 (Seizure) (1) If necessary, a court may seize any articles thought to be used as evidence or liable to confiscation, only when such articles are deemed to be connected with the accused case: Provided, That the same shall not apply where otherwise provided in Acts. <Amended by Act No. 10864, Jul. 18, 2011>

(2) A court may designate articles to be seized and order the owner, possessor, or custodian thereof to produce such articles.

(3) Where the object to be seized is a computer disc or other data storage medium similar thereto (hereafter referred to as "data storage medium or such" in this paragraph), the court shall require it should be submitted after the data therein are printed out or it is copied within the specified scope of the data stored: Provided, That the data storage medium or such may be seized, when it is deemed substantially impossible to print out or copy the specified scope of the data or deemed substantially impracticable to accomplish the purpose of seizure. <Newly Inserted by Act No. 10864, Jul. 18, 2011>

(4) Where the court receives the data pursuant to paragraph (3), it shall inform, without delay, the

subject of information defined in subparagraph 3 of Article 2 of the Personal Information Protection Act, of the relevant fact. <Newly Inserted by Act No. 10864, Jul. 18, 2011>

Article 107 (Seizure of Postal Matters) (1) If necessary, a court may seize or issue an order to produce, postal matters or articles relating to telecommunications defined in subparagraph 3 of Article 2 of the Protection of Communications Secrets Act (hereinafter referred to as "telecommunications") which are possessed or kept by a postal office or any other relevant institution, etc., only when such matters or articles are deemed to be connected with the accused case. <Amended by Act No. 10864, Jul. 18, 2011>

(2) Deleted. <by Act No. 10864, Jul. 18, 2011>

(3) When any disposition has been effected under paragraph (1), notification of such facts shall be provided to the sender or to the addressee: Provided, That this shall not apply if there is apprehension that such notification may obstruct judicial proceedings. <Amended by Act No. 10864, Jul. 18, 2011>

Article 108 (Seizure of Voluntarily Produced Articles, etc.)

Articles which have been dropped or left, or voluntarily produced by their owner, possessor, or custodian may be retained without a warrant of seizure.

Article 109 (Search) (1) If necessary, a court may search the body of the criminal defendant, or articles, dwelling, or any other place of the defendant, only when they are deemed to be connected with the accused case. <Amended by Act No. 10864, Jul. 18, 2011>

(2) A person other than the criminal defendant, or articles, dwelling, or any other place of the person may be searched, only when it is deemed that there are articles liable to seize therein.

Article 110 (Confidential Military Information and Seizure) (1) Seizure and search shall not be conducted at a place in respect of which military information shall be kept confidential, unless approval from the person in charge is obtained.

(2) The person in charge referred to in the preceding paragraph may not refuse to grant such consent, except where compliance would be prejudicial to important interests of the State.

Article 111 (Official Secrets and Seizure) (1) In respect to articles held in the custody or possession of a person who is or was a public official, such articles may be seized only with the consent of such public office concerned, or its supervisory office, if the person or the public office to which he/she belongs or belonged declares that they relate to an official secret.

(2) Such office or its supervisory office may not refuse to give such consent, except where compliance would be prejudicial to important interests of the State.

Article 112 (Professional Secrets and Seizure)

A person who is or was a licensed advocate, patent attorney, notary public, certified public accountant, licensed tax accountant, public scrivener, doctor, herb doctor, dentist, pharmacist, druggist, midwife, nurse, or a religious functionary may resist seizure of articles held in his/her custody or possession in consequence of mandate he/she has received in the course of his/her profession and which relates to secrets of other persons: Provided, That this shall not apply if such other persons have consented to such seizure, or if it is necessary for important public interests. <Amended by Act No. 3282, Dec. 18, 1980; Act No. 5454, Dec. 13, 1997>

Article 113 (Warrant of Seizure or of Search)

A warrant of seizure or of search shall be issued where a seizure or search is to be effected other than in open court.

Article 114 (Form of Warrants) (1) A warrant of seizure or of search shall contain the names of the criminal defendant and the offense; the articles to be seized; the place, person, or articles to be searched; the date of its issue; the effective period; a statement that the warrant shall not be executed after the lapse of such period and shall be returned to the court of issuance; the signature and seal of the presiding judge or commissioned judge; and such other matters as prescribed by the Supreme Court Regulations: Provided, That where the articles to be seized or searched relate to telecommunications, the period during which such telecommunications are prepared shall be stated. <Amended by Act No. 10864, Jul. 18, 2011>

(2) Article 75 (2) shall apply mutatis mutandis to the warrant referred to in the preceding paragraph.

Article 115 (Method of Execution of Warrant) (1) A warrant of seizure or of search shall be executed by a judicial police officer under the direction of a prosecutor: Provided, That the presiding judge may order court officials to execute the warrant, if necessary. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Article 83 shall apply mutatis mutandis to the execution of a warrant of seizure or of search.

Article 116 (Notabilia)

In the execution of a warrant of seizure or of search, the person who executes it shall not disclose confidential information of other persons to unauthorized persons and shall take necessary caution not to defame persons upon whom the warrant is to be served.

Article 117 (Assistance for Execution)

In the execution of a warrant of seizure or of search, court officials may, if necessary, request assistance to judicial police officers. <Amended by Act No. 8496, Jun. 1, 2007>

Article 118 (Suggestion of Warrant)

A warrant of seizure or of search shall be shown to the person upon whom the warrant is to be served.

Article 119 (Prohibition of Entrance or Leave during Execution) (1) During the execution of a warrant of seizure or of search, persons may be forbidden to enter or leave the place.

(2) Any person who does not comply with the prohibition of the preceding paragraph may be forced to withdraw or be placed under guard until the execution of the warrant is completed.

Article 120 (Execution of Warrant and Necessary Measures) (1) In the execution of a warrant of seizure or of search, locks may be removed or seals opened, or any other necessary measures taken.

(2) The measures of the preceding paragraph may be taken for the seized articles.

Article 121 (Execution of Warrant and Presence of Parties)

A prosecutor, the criminal defendant, or his/her defense counsel may be present when a warrant of seizure or of search is being executed.

Article 122 (Execution of Warrant and Notice of Presence)

Where a warrant of seizure or of search is to be executed, the persons listed in the preceding Article shall be notified of the date and place of execution in advance: Provided, That this shall not apply in cases where a person prescribed in the preceding Article, clearly expresses his/her will in advance to the court that he/she does not desire to be present or in case of urgency.

**Article 123 (Execution of Warrant and Presence of Responsible Party)** (1) Where a warrant of seizure or of search is to be executed in a public office, military airplane, vessel or vehicle, the responsible person shall be notified to be present.

(2) Where a warrant of seizure or of search is to be executed in the dwelling of a person, or in premises, buildings, airplanes, vessels, or vehicles which are guarded by persons, except as provided in the preceding paragraph, the owners, guards, or persons acting for them shall be present.

(3) Where the persons referred to in the preceding paragraph are not available, a neighbor or an official of the local public entity shall be present.

**Article 124 (Search of Female)**

When the body of a woman is searched, another woman of full age shall be present.

**Article 125 (Restriction on Execution at Night)**

Before sunrise and after sunset, the dwelling of a person, or premises, buildings, airplanes, vessels, or vehicles which are guarded by persons shall not be entered for the purpose of the execution of a warrant unless the warrant includes a statement that it is to be executed at night.

**Article 126 (Exception of Limitation of Execution at Night)**

The restriction provided in the preceding Article shall not be observed in respect to the execution of a warrant of seizure or of search in the following places:

1. Places which are considered to be habitually used for gambling and acts prejudicial to good morals;
2. Inns, restaurants, or other places to which the public has access at night-time, but only during the hours when they are open to the public.

**Article 127 (Suspension of Execution and Necessary Measures)**

Where the execution of a warrant of seizure or of search is suspended, the place concerned may, if necessary, be closed or a guard may be placed there until the execution is completed.

**Article 128 (Delivery of Certificate)**

When a search has been made without discovering any evidence or articles liable to confiscation, a certificate to that effect shall be delivered on demand to the person who has been subject to such search.

**Article 129 (Delivery of Inventory of Property)**

In case of seizure, an inventory of the seized property shall be made and given to the owner, possessor, or custodian of the property, or to the person corresponding thereto.

**Article 130 (Custody and Abrogation of Seized Articles)** (1) In respect to articles seized which can not be conveniently transported or held in custody, either a guard may be placed over them or the owner or some other person may be asked to voluntarily assume custody thereof.

(2) A seized article may be destroyed or discarded if there is apprehension that they may cause danger.

(3) A seized article may be destroyed or scrapped with consent of the owner or a person who has an authority to consent, if it is banned to manufacture, produce, possess, own, or distribute such article under statutes, and the article is perishable or it is impracticable to keep the article in custody.

<Newly Inserted by Act No. 8496, Jun. 1, 2007>

**Article 131 (Notabilia)**

All appropriate measures shall be taken to prevent losses or damage, etc. to seized articles.

Article 132 (Keeping Proceeds from Seized Articles in Custody) (1) If it is anticipated that a seized article subject to confiscation will probably be destroyed, damaged, or perished or the value of such article is likely to be significantly decreased or if it is impracticable to keep the article in custody, it may be sold out and the proceeds from such sale may be kept in custody instead.

(2) If it is impossible to determine who has a right to have a seized but returnable article returned or to find the whereabout of a person who has such right and it is anticipated that the seized article will probably be destroyed, damaged, or perished or the value of such article is likely to be significantly decreased or if it is impracticable to keep the article in custody, it may be sold out and the proceeds from such sale may be kept in custody instead.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 133 (Return or Temporary Return of Seized Articles) (1) Seized articles which are no longer deemed necessary to seize shall be returned to the owner by a ruling, even before the completion of the accused case, and seized articles to be produced as evidence may be temporarily returned upon request of the owner, possessor, custodian, or presenter.

(2) Where an article seized only for evidence, is required to be used continuously by the owner or possessor, the temporary return of such article shall be made immediately after photographing it or taking other necessary measures to preserve its original status.

Article 134 (Return of Seized Goods to Rightful Owner)

If a reason for return is apparent, wrongfully obtained goods shall be returned to the rightful owner, even before the completion of the accused case, by a ruling.

Article 135 (Disposition of Seized Articles and Notice to Party)

In a ruling under the preceding three Articles, the prosecutor, the rightful owner, the criminal defendant, or his/her defense counsel shall be notified in advance.

Article 136 (Commissioned Judge and Requisitioned Judge) (1) A member of a collegiate court may be ordered to make a seizure or search, or a judge of a district court having jurisdiction over the place where such seizure or search is to be effected may be requested to do so, by a court.

(2) Where the object to be seized or searched is not in the area under his/her control, a requisitioned judge may request a judge of another district court in the jurisdiction concerned to effect it.

(3) As regards seizure or search effected by a commissioned judge or a requisitioned judge, the provisions related to seizure or search effected by a court shall apply mutatis mutandis.

Article 137 (Execution of Warrant of Detention and Search)

When it is necessary for the purpose of executing a warrant of detention, prosecutors, judicial police officers, or court officials under Article 81 (2) may enter the dwelling of a person, or premises, buildings, airplanes, vessels, or vehicles which are guarded by persons, for search of the criminal defendant. <Amended by Act No. 8496, Jun. 1, 2007>

Article 138 (Applicable Provisions)

Articles 119, 120, 123 and 127 shall apply mutatis mutandis to the search by prosecutors, judicial police officers, or court officials in accordance with the provisions of the preceding Article.
<Amended by Act No. 8496, Jun. 1, 2007>

## CHAPTER XI EVIDENCE BY INSPECTION

### Article 139 (Evidence by Inspection)

If it is necessary for the purpose of discovering facts, a court may effect an inspection of evidence.

### Article 140 (Evidence by Inspection and Necessary Disposition)

Persons may be examined, corpses dissected, graves opened, things destroyed, or other necessary steps may be taken to effect proper inspection of evidence.

**Article 141 (Caution for Physical Examination)** (1) In examining a person, due care shall be exercised not to damage the health and reputation of the person to be inspected, in consideration of the gender, age, condition of health, and other circumstances of the person.

(2) The examination of a person who is not the criminal defendant may be conducted only when there is a cogent reason indicating a source of evidence.

(3) Where the body of a woman is examined, a doctor or another woman of full age shall be present.

(4) In case of dissecting a corpse or of opening a grave, proper respect for the remains shall be observed, and the bereaved family shall be notified in advance.

### Article 142 (Physical Examination and Summons)

A court may summon persons other than the criminal defendant either to the court or to other place designated for the purpose of examining the person.

**Article 143 (Restriction of Time)** (1) Before sunrise and after sunset, the dwelling of a person, or premises, buildings, airplanes, vessels, or vehicles which are guarded by persons may be entered for the purpose of inspection, only with the consent of the owners, guards, or persons acting for them: Provided, That this shall not apply when there is apprehension that the object of inspection might not be available after sunrise.

(2) Inspection commenced before sunset may be continued after sunset.

(3) The restriction specified in paragraph (1) shall not apply to the places referred to in Article 126.

### Article 144 (Assistance for Inspection)

A judicial police officer may, if necessary, be ordered to assist in an inspection.

### Article 145 (Applicable Provisions)

Articles 110, 119 through 123, 127, and 136 shall apply mutatis mutandis to inspection of evidence.

## CHAPTER XII EXAMINATION OF WITNESS

### Article 146 (Qualification of Witness)

Except as otherwise provided in Acts, a court may examine any person as a witness.

**Article 147 (Official Secrets and Qualification of Witness)** (1) If, in respect to facts of which a person who is or was a public official has obtained knowledge in the course of his/her duties, either such person himself, or the relevant public office, declares that such knowledge relates to official secrets, he/she shall not be examined as a witness without the consent of the public office to which he/she belongs or belonged or the supervisory office.

(2) The public office to which the person belongs or belonged or the relevant supervisory office may not refuse to give its consent, except where compliance would be prejudicial to important interests of the State.

### Article 148 (Criminal Responsibility of Near Relative and Refusal of Witness)

A person may refuse to testify when such testimony may be the cause of criminal prosecution or public action, or conviction for him/her or following persons: <Amended by Act No. 7427, Mar. 31,

2005>

1. A relative or a person with whom he/she had a kinship;
2. Legal representative or supervisor of guardianship.

Article 149 (Professional Secrets and Refusal of Witness)

A person who is or was an attorney-at-law, patent attorney, notary public, certified public accountant, certified tax accountant, public scrivener, doctor, herb doctor, dentist, pharmacist, druggist, midwife, nurse, or religious functionary may refuse to testify in respect to facts of which he/she has obtained knowledge in consequence of a mandate he/she has received in the course of his/her profession and which relate to secrets of other persons: Provided, That this shall not apply if such other persons have consented, or if the testimony is deemed necessary for the important public interest. <Amended by Act No. 3282, Dec. 18, 1980; Act No. 5454, Dec. 13, 1997>

Article 150 (Vindication of Reason for Refusal of Testimony)

A person who refuses to testify shall offer presumptive proof as to his/her reason for refusing to testify.

Article 150-2 (Summon for Witness) (1) A court shall summon a person as a witness by serving a subpoena, communicating by telephone, electronic mail, or any other appropriate means.

(2) A person who filed a motion to call a witness shall owe a duty to make reasonable efforts to make the witness appear before the court.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 151 (Failure in Appearance of Witness and Administrative Fines) (1) If a witness on whom a subpoena was served does not appear without good cause, the court may order the witness to pay the litigation expense incurred by his/her non-appearance, by its ruling, and may also impose an administrative fine not exceeding five million won upon him/her. The foregoing shall also apply where there exists the same effect as service of a subpoena pursuant to Article 76 (2) and (5), which is applicable mutatis mutandis under Article 153.

(2) If a witness on whom an administrative fine under paragraph (1) was imposed by the court does not make an appearance again without good cause, the court shall put the witness in court-ordered confinement for a maximum period of seven days, by its ruling.

(3) A court shall summon a witness on the date set for a trial for court-ordered confinement and shall examine on whether there is any good cause referred to in paragraph (2).

(4) The court-ordered confinement of a witness shall be executed by judicial police officers, correctional officers, court guards, or court officials in compliance with an order of the presiding judge, by putting him/her in a prison, a detention house, or a detention room in a police station.

(5) When a witness is confined in a confinement facility under paragraph (4) after a trial to put him/her in court-ordered confinement, the head of the confinement facility shall notify the court of the fact immediately.

(6) The court shall, upon receiving the notice under paragraph (5), hold a hearing for examination of witness.

(7) When a witness gives testimony while he/she is under court-ordered confinement pursuant to a ruling on confinement, the court shall cancel the ruling immediately and shall issue an order to release the witness.

(8) An immediate complaint may be filed against a ruling made pursuant to paragraphs (1) and (2). In such cases, Article 410 shall not apply.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 152 (Disobedience to Summons and Custody)

A witness who does not obey a summons without good cause may be taken into custody.

Article 153 (Provisions Applicable Mutatis Mutandis)

Articles 73, 74 and 76 shall apply mutatis mutandis to the summons of a witness.

Article 154 (Summons of Witness within Precinct of Court)

A witness who is within the precinct of a court may be examined without summons.

Article 155 (Provisions Applicable Mutatis Mutandis)

Articles 73, 75, 77, 81 through 83, and 85 (1) and (2) shall apply mutatis mutandis to taking a witness into custody.

Article 156 (Oath of Witness)

A witness shall be required to take an oath before being examined: Provided, That the same shall not apply where otherwise provided in Acts.

Article 157 (Form of Oath) (1) The oath shall be based on a written oath.

(2) The written oath shall be as follows: "I swear that I will speak the truth, the whole truth and nothing but the truth according to my own conscience and if there is any falsehood in my statement, I shall be punished for perjury".

(3) A presiding judge shall have a witness read the written oath and print his/her name and affix his/her seal thereon or write his/her signature: Provided, That if the witness is not able to read or sign the written oath, court officials who participate in the trial shall act for him/her. <Amended by Act No. 8496, Jun. 1, 2007>

(4) The oath shall be taken solemnly in the state of standing up.

Article 158 (Admonishment to Sworn Witness)

A presiding judge shall admonish the witness to be aware of the punishment for perjury before being sworn.

Article 159 (Disability of Oath)

Any of the following witnesses shall be examined without being sworn:

1. Person under 16 years of age;
2. Person who can not understand the meaning of an oath.

Article 160 (Notice of Rights to Refuse to Testify)

A witness referred to in Article 148 or 149 shall be instructed by a presiding judge before being examined that he/she may refuse to testify.

Article 161 (Refusal of Oath or of Witness and Administrative Fines) (1) When a witness refuse to swear or testify without good cause, he/she may be subject to an administrative fine not exceeding 500,000 won, by a ruling. <Amended by Act No. 2450, Jan. 25, 1973; Act No. 5054, Dec. 29, 1995>

(2) An immediate complaint may be filed against a ruling referred to in paragraph (1). <Amended by Act No. 5054, Dec. 29, 1995>

Article 161-2 (How to Examine Witness) (1) A witness shall be examined first by the party (prosecutor, defense counsel, or criminal defendant) who requested his/her appearance, and then by the other party (prosecutor, defense counsel or criminal defendant).

(2) The presiding judge may examine the witness after the examination referred to in the preceding paragraph is completed.

(3) The presiding judge may, if deemed necessary, irrespective of the preceding two paragraphs, examine the witness at any time, and may change the order of the examination referred to in paragraph (1).

(4) The method of examination of a witness who is to be examined by the court ex officio or on the application of a victim due to a crime, shall be determined by the presiding judge. <Amended by Act No. 3955, Nov. 28, 1987>

(5) A member of a collegiate court may examine a witness after notifying the presiding judge to do so.

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 162 (Separate Examination and Confrontation) (1) Examination of witness shall be made of each of the witnesses. <Amended by Act No. 705, Sep. 1, 1961>

(2) Where a witness who has not been examined, is present in court, he/she shall be ordered to leave court.

(3) Where necessary, a witness may be cross-examined with other witnesses or the criminal defendant.

(4) Deleted. <by Act No. 705, Sep. 1, 1961>

Article 163 (Right for Presence and for Examination of Relevant Party) (1) A prosecutor, the criminal defendant, or his/her defense counsel may be present at the examination of a witness.

(2) Notice of the date and place of the examination of a witness shall be given in advance to the persons who are entitled to be present at the examination pursuant to the preceding paragraph: Provided, That where they announce clearly their desire not to be present, the foregoing shall not apply.

Article 163-2 (Presence of Persons with Reliable Relationship) (1) When a court has a victim of a crime sit in the witness box for examination, the court may, if deemed that the victim is likely to feel severe uneasiness or tension in light of the age of the witness, his/her physical or mental state, or any other circumstances, allow a person who has a reliable relationship with the victim to sit in company with the victim, ex officio or upon a motion of the victim, his/her legal representative, or the prosecutor.

(2) If a victim of a crime is less than 13 years of age, or incompetent to discern right from wrong or make a decision due to his/her physical or mental disability, the court shall allow a person who has a reliable relation with the victim to sit in company with the victim, unless such company is likely to cause a trouble in the proceedings or there is any inevitable reason otherwise.

(3) A person who sits in company under paragraph (1) or (2) shall not interfere with the examination by the court, examination of a involved in the litigation, or testimony of a witness, nor commit any act that is likely to give an undue influence on the contents of testimony of the witness.

(4) The scope of persons who have a reliable relationship and thus are allowed to being present in company under paragraph (1) or (2), the procedure for and manner of being present in company, and other necessary matters shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 164 (Demand of Inquiry) (1) Where a prosecutor, the criminal defendant, or his/her defense counsel does not take part in the examination of a witness, they may request the court to inquiry into necessary matters.

(2) Where the testimony of a witness without the presence of the criminal defendant or his/her defense counsel contains an unexpected and serious statement which is disadvantageous to the criminal defendant, the court shall give notice of the contents of such statement to the criminal defendant or his/her defense counsel.

(3) Deleted. <by Act No. 705, Sep. 1, 1961>

Article 165 (Examination of Witness outside Court)

A court may summon a witness to a place other than the courtroom for examination or may examine him/her at the place where he/she is, after hearing the opinion of the prosecutor, the criminal defendant, or his/her defense counsel and taking into consideration his/her age, vocation, health condition, and other special circumstances.

Article 165-2 (Examination of Witness through Video or Other Transmission System)

If deemed appropriate when it examines any of the following persons as witness, a court may examine the person through a video or any other transmission system or install a partitioning facility to place the person behind the facility for examination after hearing opinions of the prosecutor and the criminal defendant or his/her defense counsel: <Amended by Act No. 9765, Jun. 9, 2009; Act No. 11002, Aug. 4, 2011; Act No. 11572, Dec. 18, 2012>

1. A victim of a crime referred to in Article 71 (1) 1 through 3 of the Child Welfare Act;
2. A child, juvenile, or victim who has been targeted for a crime referred to in Articles 7, 8, 11 through 15, and 17 (1) of the Act on the Protection of Children and Juveniles against Sexual Abuse;
3. A person who is deemed likely to lose peace of mind substantially due to psychological burden when the person testifies in confrontation with a criminal defendant or any other person, in light of the nature of the crime involved, the age of the witness, his/her physical or mental state, the relation with the criminal defendant, or any other circumstances.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 166 (Order to Proceed and Custody) (1) When deemed necessary, a court may order a witness to proceed to a designated place in company, by its ruling.

(2) A witness may be taken into custody when he/she refuses the foregoing order without any good cause.

Article 167 (Commissioned Judge and Requisitioned Judge) (1) Where a witness is to be examined outside the court, a court may order a member of a collegiate court to conduct such examination or may request a judge of a district court at the place where the witness is actually present to do so.

(2) The requisitioned judge may, if the witness is not in his/her jurisdiction, request a judge of another district court which has the jurisdiction over the place where he/she is at present to make the examination.

(3) The commissioned judge or requisitioned judge may adopt necessary measures to examine a witness in jurisdiction of another court or presiding judge.

Article 168 (Travelling Expenses, Daily Allowances, and Lodging Expenses for Witnesses)

A witness may demand travelling expenses, daily allowance, and lodging expenses in accordance with Acts: Provided, That this shall not apply if, without good reason, he/she refuses to swear or to testify.

## CHAPTER XIII EXPERT EVIDENCE

### Article 169 (Expert Evidence)

A court may order a person of learning or experience to give an expert evidence.

**Article 170 (Oath)** (1) An expert witness shall take an oath before expert evidence is given.

(2) The oath shall be based on a written oath.

(3) The written oath shall be as follows: "I swear to give an expert opinion faithfully according to my own conscience, and if there is any falsehood in my statement, I shall be punished for the false expert opinion".

(4) Articles 157 (3) and (4) and 158 shall apply mutatis mutandis to the oath of an expert witness.

**Article 171 (Report on Expert Evidence)** (1) As regards a process or result of expert evidence, the expert witness shall submit it in writing.

(2) Where there are two or more expert witnesses, they shall be required to submit reports individually or jointly.

(3) The reason behind expert opinions shall be clearly stated.

(4) If necessary, the expert witness shall be required to explain his/her opinion.

**Article 172 (Expert Evidence Outside Court)** (1) If necessary, a court shall allow the expert witness to give an opinion outside the court.

(2) In case of the preceding paragraph, articles needed for an inspection may be delivered to the expert witness.

(3) When expert evidence is required in respect to the mental or physical condition of the criminal defendant, a court may, if necessary, confine the criminal defendant in a hospital or other suitable place for a fixed period, and when it is completed, the confinement shall be terminated without delay.

(4) When the confinement referred to in the preceding paragraph is required, a warrant of confinement for expert opinion shall be issued. <Amended by Act No. 2450, Jan. 25, 1973>

(5) If it is necessary for the confinement under paragraph (3), the court may order judicial police officers to serve as guards of the criminal defendant, ex officio or upon request of administrators of hospitals or other places where the criminal defendant is to be confined. <Newly Inserted by Act No. 2450, Jan. 25, 1973>

(6) If necessary, the court may extend or shorten the period of confinement. <Newly Inserted by Act No. 2450, Jan. 25, 1973>

(7) The provisions on detention shall apply mutatis mutandis to the confinement under paragraph (3), unless otherwise provided in this Act: Provided, That exceptions shall be made to the provisions on release on bail. <Newly Inserted by Act No. 2450, Jan. 25, 1973>

(8) The confinement under paragraph (3) shall be regarded as detention in inclusion of the number of days of unconvicted detention. <Newly Inserted by Act No. 2450, Jan. 25, 1973>

**Article 172-2 (Confinement for Expert Opinion and Detention)** (1) When a warrant of confinement for expert opinion is executed against the criminal defendant under detention, it shall be regarded that during the period of the confinement of the criminal defendant, execution of the detention is suspended.

(2) In the case of paragraph (1), when the disposition of the confinement under paragraph (3) of the preceding Article is cancelled or confinement period expires, it shall be regarded that the suspension of execution of detention is cancelled.

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 173 (Necessary Disposition by Expert Witness) (1) When it is necessary for the purpose of furnishing expert evidence, an expert witness may, with the permission of a court, enter the dwelling of a person, premises, buildings, airplanes, vessels, or vehicles which are guarded by persons or may examine a person, dissect a corpse, open a grave, or destroy things.

(2) On granting the permission referred to in the preceding paragraph, a court shall issue a warrant of permission, in which the name and the offense of the criminal defendant, the place to be entered, the person to be examined, the corpse to be dissected, the grave to be opened, the things to be destroyed, the name of the expert witness, and the effective period shall be entered.

(3) The expert witness shall present the warrant of permission to the person who is subject to the disposition referred to in paragraph (1).

(4) The provisions of the preceding two paragraphs shall not apply to the dispositions referred to in paragraph (1) which are effected by an expert witness in the courtroom.

(5) Articles 141 and 143 shall apply mutatis mutandis to paragraph (1).

Article 174 (Presence or Question by Expert Witness) (1) Where necessary, the expert witness may inspect or copy documents and evidence with permission of the presiding judge and may be present at the examination of the criminal defendant or witness.

(2) An expert witness may demand examination of the criminal defendant or witness or may examine him/her directly by permission of the presiding judge.

Article 175 (Commissioned Judge)

A court may require a member of a collegiate court to take necessary measures in respect of expert evidence.

Article 176 (Presence of Parties) (1) The prosecutor, the criminal defendant, or the defense counsel may be present at an examination or inquiry by an expert witness.

(2) Article 122 shall apply mutatis mutandis to the preceding paragraph.

Article 177 (Applicable Provisions)

The provisions of the preceding Chapter, except the provisions as to custody, shall apply mutatis mutandis to expert evidence.

Article 178 (Travelling Expenses and Fees for Expert Witness)

An expert witness may demand fees for his/her opinion and reimbursement of any subrogated amount, in addition to travelling expenses, daily allowances, and lodging expenses, under the conditions as prescribed by Acts.

Article 179 (Expert Witness)

Where a person is examined in regard to facts in the past which he/she comes to know by virtue of special knowledge, it shall be governed by the provisions of the preceding Chapter, instead of those of this Chapter.

Article 179-2 (Request of Expert Evidence) (1) The court may, if it is deemed necessary, request the expert evidence of public offices, schools, hospitals, or other associations or agencies equipped with appropriate facilities. In such cases, the provisions concerning oath shall not apply.

(2) In the case of paragraph (1), the court may request a person designated by such public offices, schools, hospitals, associations, or agencies, to explain the document of expert evidence.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

## CHAPTER XIV INTERPRETATION AND TRANSLATION

### Article 180 (Interpretation)

A statement by a person not versed in the Korean language shall be required to be interpreted by an interpreter.

### Article 181 (Interpreter for Deaf or Mute)

A statement by deaf or mute person may be required to interpreted by an interpreter.

### Article 182 (Translation)

Letters, signs, or marks not in the Korean language shall be translated.

### Article 183 (Applicable Provisions)

The provisions of the preceding Chapter shall apply mutatis mutandis to interpretation and translation.

## CHAPTER XV PRESERVATION OF EVIDENCE

**Article 184 (Request and Procedure for Preservation of Evidence)** (1) When there are circumstances which may make it impracticable to use evidence unless it is preserved in advance, the prosecutor, the criminal defendant, a criminal suspect, or his/her defense counsel may request a judge to effect such measures as attachment, investigation, verification, examination of witness, or expert opinion, even prior to the date for the first trial.

(2) The judge who has received the request prescribed in the preceding paragraph shall have the same authority as a court or presiding judge has, regarding the disposition of such request.

(3) When making the request referred to in paragraph (1), the person shall offer presumptive proof as to the reason in writing.

(4) A complaint against a ruling to deny a request under paragraph (1) may be filed within three days. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

### Article 185 (Inspection, etc. of Documents)

A prosecutor, the criminal defendant, a criminal suspect, or a defense counsel may inspect and also copy documents and evidence relating to the disposition referred to in the preceding Article with permission of a judge.

## CHAPTER XVI COSTS OF LITIGATION

**Article 186 (Costs of Litigation Borne by Criminal Defendant)** (1) In pronouncing a sentence, the court shall have the criminal defendant bear the whole or part of the trial costs: Provided, That this shall not apply where the criminal defendant fails to pay the trial costs due to his/her financial circumstances. <Amended by Act No. 5054, Dec. 29, 1995>

(2) Even where no sentence has been pronounced, any costs which have arisen from a cause imputable to the criminal defendant may be charged to him.

### Article 187 (Costs of Litigation Borne by Accomplices)

The costs of the litigation against accomplices may be borne jointly by them.

### Article 188 (Costs of Litigation Borne by Complainant, etc.)

If the criminal defendant is rendered a judgment of not guilty or acquittal in respect of a case prosecuted upon criminal complaint or accusation, the complainant or accuser may be required to bear, in whole or in part, the costs of the litigation if it is found that he/she acted willfully or by gross negligence.

Article 189 (Withdrawal of Appeal by Prosecutor and Costs of Litigation)

Where only a prosecutor has taken an appeal or requested a retrial and the appeal taken or retrial requested has been dismissed or withdrawn, the criminal defendant shall not be required to bear the costs of the litigation.

Article 190 (Costs of Litigation Borne by Third Party) (1) If an appeal or retrial instituted by a person other than a prosecutor is dismissed or withdrawn, such person may be required to bear the costs connected with the appeal or retrial.

(2) The provisions of the preceding paragraph shall apply where an appeal or a retrial lodged by the criminal defendant is withdrawn by a person other than the defendant.

Article 191 (Decision on Costs of Litigation) (1) When the criminal defendant is required to bear the costs of litigation where the proceedings are terminated by decision, the decision relating to such costs shall be rendered ex officio.

(2) Against such decision referred to in the preceding paragraph, an objection may be raised only when an appeal is made against merits in the decision.

Article 192 (Decision on Costs of Litigation Borne by Third Party) (1) When a person other than the criminal defendant is required to bear the costs of litigation where the proceedings are terminated by decision, a ruling for the purpose shall be rendered ex officio.

(2) An immediate complaint may be filed against the ruling referred to in the preceding paragraph.

Article 193 (Completion of Procedures Not by Trial) (1) When the costs of litigation are to be borne where the proceedings are terminated otherwise than by decision, a ruling on costs shall be rendered ex officio by the court in which the case was last pending.

(2) An immediate complaint may be filed against the ruling referred to in the preceding paragraph.

Article 194 (Fixing Amounts of Costs to be Borne)

If the decision ordering the costs of litigation to be borne, does not fix the amount of such, the same shall be fixed by the prosecutor responsible for the execution of the order.

Article 194-2 (Judgment of Acquittal and Compensation for Expenses) (1) If a judgment of acquittal is finally affirmed, the State shall be liable for the expenses incurred to the person who was a criminal defendant in the relevant case for defending his/her case on trial.

(2) In any of the following cases, the liability for the expenses under paragraph (1) may be discharged completely or partially:

1. Where it is found that the a person who was the criminal defendant deemed as been prosecuted made a false confession or fabricated an evidence for guilt with an intention to mislead the investigation or trial;
2. Where a judgment of acquittal is finally affirmed for one part of crimes in the trial, but a judgment of guilt is finally affirmed for the other part of crimes at the same time;
3. Where a judgment of acquittal is finally affirmed on any of the grounds under Article 9 or 10 (1) of the Criminal Act;
4. Where such expenses have been incurred due to a cause for which the person who was a criminal defendant shall be culpable.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 194-3 (Procedure for Compensation for Expenses) (1) The compensation for expenses under Article 194-2 (1) shall be, upon receiving a request from the person who was a criminal defendant, decided by a collegiate division of the court that made the judgment of acquittal.

(2) The request under paragraph (1) shall be filed within three years from the date on which the person comes to know that the judgment of acquittal has become final and conclusive and five years from the date on which such judgment became final and conclusive. <Amended by Act No. 12899, Dec. 30, 2014>

(3) An immediate complaint may be filed against a decision under paragraph (1).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 194-4 (Scope of Compensable Expenses) (1) The expenses compensable under Article 194-2 shall be limited to the expenses incurred to the person who was a criminal defendant or his/her defense counsel, such as travel expense, daily allowance, and accommodations, in preparing for and attending trials, and the remuneration for the person who was a defense counsel. In this case, the Costs of Criminal Procedure Act shall apply mutatis mutandis to the compensable amount, but the provisions thereof concerning witnesses shall apply mutatis mutandis to criminal defendants, while the provisions thereof concerning the court-appointed defense counsel shall apply mutatis mutandis to defense counsel.

(2) If there are two or more defense counsel involved in preparing for or attending trials, the court may limit the travel expense, daily allowance, and accommodations for defense counsel to the expenses incurred to the representative defense counsel or some of other defense counsel, considering the nature of the case, the status of proceedings, and other circumstances.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 194-5 (Provisions Applicable Mutatis Mutandis)

The claim of compensation for expenses, the procedure for compensation for expenses, the correlation between compensation for expenses hereunder and compensation for damages under other Acts, the assignment, and seizure of a right to compensation, or the compensation for expenses payable to the heir to the person who was a criminal defendant shall be made in accordance with the practices of compensation under the Criminal Compensation Act, except as otherwise provided in this Act.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

## PART II COURT OF FIRST INSTANCE

## CHAPTER I INVESTIGATION

Article 195 (Investigation by Prosecutor)

Where there is a suspicion that an offense has been committed, a prosecutor shall investigate the offender, the facts of the offense, and the evidence.

Article 196 (Judicial Police Officers) (1) Investigators, police administrative officers, police superintendents, superintendents, police captains, or police lieutenants shall receive instructions from a prosecutor with regard to all investigations, while serving as senior judicial police officers.

(2) Where senior judicial police officers recognize that a person is suspected of having committed a crime, they shall launch and conduct investigation into the offender, the facts of the offense, and the evidence.

(3) Judicial police officers shall comply with a prosecutor's instructions. Details of the prosecutor' instructions shall be determined by Presidential Decree.

(4) Where senior judicial police officers have investigated a crime, they shall send, without delay, the relevant documents and evidence to the prosecutor.

(5) Police sergeants, senior patrol officers, or patrol officers shall assist in the investigation of crimes, as junior judical police officers.

(6) Judicial police officers other than persons prescribed in paragraph (1) or (5) may be determined by Acts.

[This Article Wholly Amended by Act No. 10864, Jul. 18, 2011]

Article 197 (Special Judicial Police Officers)

The qualification and scope of function of judicial police officers in regard to forestry, marine affairs, monopolies, taxes, military investigation institution, and other special matters shall be provided in Acts.

Article 198 (Matters to be Observed) (1) In principle, an investigation into a criminal suspect shall be conducted without putting him/her under detention.

(2) Each prosecutor, judicial police officer, and other person whose duties are involved in investigation shall respect the human rights of each criminal suspect or any other person, keep the secret known to him/her in the course of investigation, and refrain from hindering the investigation.

(3) Each prosecutor, judicial police officer, and other person whose duties are involved in investigation shall prepare a list of all of the documents or articles he/she has prepared or acquired with respect to the investigation in the process thereof. <Newly Inserted by Act No. 10864, Jul. 18, 2011>

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 198-2 (Inspection of Place of Arrest or Detention by Prosecutors) (1) The chief prosecutor of a district prosecutors' office or of its branch office shall have a prosecutor inspect the place where a criminal suspect is arrested or detained in the investigation agencies under the control of such office once or more every month, in order to investigate whether illegal arrest or detention has been made or not. The inspecting prosecutor shall examine and question the detained or the arrested person and shall examine the relevant documents. <Amended by Act No. 5054, Dec. 29, 1995>

(2) Where a probable reason exists to suspect that a person has been arrested or detained not through due process of law, the prosecutor shall release the arrested or detained person immediately or order transmission of such case immediately to the prosecutors' office. <Amended by Act No. 5054, Dec. 29, 1995>

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 199 (Investigation and Necessary Examination) (1) Necessary examinations may be made in order to achieve the purpose of an investigation: Provided, That compulsory measures shall be taken only where otherwise provided in this Act to the least extent necessary. <Amended by Act No. 5054, Dec. 29, 1995>

(2) A public office or public or private organization may be required to make a report on necessary matters regarding an investigation.

Article 200 (Request for Appearance of Criminal Suspect)

Whenever necessary for investigation, any prosecutor or senior judicial police officer may demand a criminal suspect to make an appearance, in order to hear his/her statements.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 200-2 (Arrest with Warrant) (1) Where a probable reason exists to suspect that a criminal suspect has committed a crime, and he/she refuses or is likely to refuse the request of appearance under Article 200 without good cause, a prosecutor may arrest the criminal suspect with an arrest warrant issued by a judge of the competent district court upon request of the prosecutor, and a senior judicial police officer may arrest the criminal suspect with an arrest warrant issued by a judge of the competent district court upon request of the prosecutor who is requested for the warrant by the judicial police officers: Provided, That with regard to cases punishable with a fine of a maximum amount not exceeding 500,000 won, misdemeanor imprisonment, or a minor fine, such arrest shall be effected only where the criminal suspect has no fixed dwelling or refuses the request of appearance under Article 200 without good cause.

(2) Where a judge of a district court who receives the request under paragraph (1) deems that the request has a good reason, he/she shall issue an arrest warrant: Provided, That this shall not apply where it is deemed not obviously necessary to arrest the suspect.

(3) When a judge of the district court who receives the request under paragraph (1) does not issue an arrest warrant, he/she shall state the gist and reasons therefor in the request, sign and seal the request, and return the request to the prosecutor who has made the request.

(4) Where a prosecutor makes the request under paragraph (1), if he/she has before requested or received an arrest warrant of the same criminal suspect on the same criminal facts, he/she shall enter the gist and reasons for the second request for the arrest warrant.

(5) Where an arrested criminal suspect is to be detained, a warrant of detention shall be requested pursuant to Article 201, and if such request for the warrant of detention is not made within 48 hours from the time of arrest, the criminal suspect shall be released.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 200-3 (Emergency Arrest) (1) Where a probable reason exists to suspect that any criminal suspect commits crimes punishable with death penalty, imprisonment with labor for an indefinite term, or imprisonment, with or without labor, for not less than three years, and the criminal suspect falls under any of the following, a prosecutor or senior judicial police officer may arrest the suspect without an arrest warrant, upon statement of reasons therefor if it is not possible to obtain an arrest warrant of a judge of the district court because of urgencies. In this case, the urgencies means the cases where the issue of an arrest warrant is pressed for time, such as where the criminal suspect is found by chance: <Amended by Act No. 8496, Jun. 1, 2007>

1. If the criminal suspect is likely to destroy evidence;
2. If the criminal suspect escaped or is likely to escape.

(2) Where a senior judicial police officer has arrested criminal suspects under paragraph (1), he/she shall obtain approval from a prosecutor immediately.

(3) In case of an emergency arrest of a criminal suspect under paragraph (1), a prosecutor or senior judicial police officer shall prepare an affidavit of emergency arrest immediately.

(4) The gist of charge, the grounds for emergency arrest, and similar matters shall be stated in the affidavit of emergency arrest under paragraph (3).

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 200-4 (Emergency Arrest and Term of Request for Warrant) (1) When a prosecutor or senior judicial police officer has arrested a criminal suspect pursuant to Article 200-3 and intends to detain him/her, the prosecutor shall request a warrant of detention to a judge of the competent district court without delay, and the senior judicial police officer shall request a warrant of detention issued by a judge of the competent district court upon request of a prosecutor who is requested for the warrant by the judicial police officers. In this case, a request for the warrant of detention shall be made within 48 hours from the time when the criminal suspect is arrested and shall be accompanied by the affidavit of emergency arrest under Article 200-3 (3). <Amended by Act No. 8496, Jun. 1, 2007>

(2) When a warrant of detention is not requested or issued as prescribed in paragraph (1), a criminal suspect shall be released immediately.

(3) A person who is released as prescribed in paragraph (2) shall not be arrested on the same criminal facts without a warrant.

(4) When a prosecutor released a criminal suspect without requesting a warrant of detention under paragraph (1), he/she shall notify the court of the following matters in writing within 30 days from the date of release. In such cases, a copy of the affidavit of emergency arrest shall be attached thereto: <Newly Inserted by Act No. 8496, Jun. 1, 2007>

1. Personal matters of the person who had been arrested in an emergency case and was released thereafter;
2. Time and place of the emergency arrest and specific reasons for such emergency arrest;
3. Time and place of release and reasons for release;
4. Names of the prosecutor or senior judicial police officer who had arrested the criminal suspect in an emergency case and released him.

(5) A person who was released from emergency arrest, or his/her defense counsel, legal representative, spouse, lineal relative, or sibling may inspect or make copies of the notice and relevant documents. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(6) When a senior judicial police officer released a criminal suspect arrested in an emergency case without requesting a warrant of detention, the officer shall report it to the prosecutor immediately. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 200-5 (Notice of Arrest and Suspected Crime)

Whenever arresting a criminal suspect, every prosecutor or senior judicial police officer shall notify the criminal suspect of the gist of the suspected crime, the reasons for arrest, and the right to appoint defense counsel and shall also give an opportunity to vindicate himself.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 200-6 (Provisions Applicable Mutatis Mutandis)

Article 75, the main body of paragraph (1) and paragraph (3) of Article 81 (1), Articles 82, 83, 85 (1), (3), and (4), 86, 87, 89 through 91, 93, and 101 (4), and the proviso to 102 (1) shall apply where a prosecutor or senior judicial police officer arrests the criminal suspects. In this case, "detention" is regarded as "arrest", and "warrant of detention" as "arrest warrant". <Amended by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 201 (Detention) (1) Where a probable reason exists to suspect that a criminal suspect has committed a crime and if he/she falls under any subparagraph of Article 70 (1), a prosecutor may detain the criminal suspect for detention with a warrant of detention issued by a judge of the competent district court upon request of the prosecutor, and the senior judicial police officers may arrest the criminal suspect with a warrant of detention issued by a judge of the competent judge upon request of a prosecutor who is requested for the warrant by the judicial police officers: Provided, That with regard to offenses punishable with a fine not exceeding 500,000 won, misdemeanor imprisonment, or a minor fine, such arrest shall be effected only where the criminal suspect has no fixed dwelling. <Amended by Act No. 3282, Dec. 18, 1980; Act No. 5054, Dec. 29, 1995>

(2) When a warrant of detention is requested, data justifying the necessity of the detention shall be submitted. <Amended by Act No. 3282, Dec. 18, 1980>

(3) The judge of the district court who is requested as prescribed in paragraph (1) shall make a decision immediately as to whether a warrant of detention will be issued. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

(4) Where a judge of the district court who receives the request under paragraph (1) deems that the request has a good reason, he/she shall issue a warrant of detention. When the judge does not issue a warrant, he/she shall state the gist thereof and reasons therefor in the request, sign and seal the request, and return the request to the prosecutor who has made the request. <Amended by Act No. 3282, Dec. 18, 1980>

(5) Where a prosecutor makes the request under paragraph (1), if he/she has before requested or received a warrant of detention of the same criminal suspect on the same criminal facts, he/she shall enter the gist of and reasons for the second request for the warrant of detention. <Amended by Act No. 3282, Dec. 18, 1980>

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 201-2 (Request for Warrant of Detention and Examination of Criminal Suspect) (1) Upon receiving a request for a warrant of detention of a criminal suspect arrested under Article 200-2, 200-3, or 212, a judge shall hold a hearing to examine the criminal suspect without delay. In this case, such hearing shall be held by the day following the date on which the warrant of detention is requested, except in any extraordinary circumstances.

(2) Upon receiving a request for a warrant of detention of any criminal suspect other than those under paragraph (1), the judge shall issue a warrant of custody, if a probable reason exists to believe that the criminal suspect committed the crime and shall examine the criminal suspect upon taking the suspect into custody: Provided, That the foregoing shall not apply where the suspect escaped or it is impossible to examine the suspect for any other reason.

(3) The judge shall notify the prosecutor, the criminal suspect, and his/her defense counsel, of the time and place of the hearing for examination, immediately in the case of paragraph (1) or immediately after taking the criminal suspect into custody in the case of paragraph (2). In this case, the prosecutor shall bring the criminal suspect to make an appearance on the date of hearing for examination, if the criminal suspect is under arrest.

(4) The prosecutor and the defense counsel may appear before the court on the date of hearing for examination under paragraph (3) to make a statement.

(5) When the judge conducts the examination under paragraph (1) or (2), he/she shall take measures, such as separate examination of accomplices, and other measures necessary for protection of secret in investigation.

(6) When a criminal suspect is examined pursuant to paragraph (1) or (2), the court officials in charge shall prepare the minutes of hearing to describe the outlines of examination.

(7) When a criminal suspect is examined, the period of time beginning on the date on which a request for warrant of detention along with documents relating to investigation and evidential materials is filed with the court and ending on the date on which such documents and materials are returned after

issuing the warrant of detention shall not be included in the detention period for the purpose of applying Articles 202 and 203.

(8) If a criminal suspect subject to examination has no defense counsel, the judge of the district court shall ex officio appoint a defense counsel. In such cases, the appointment of the counsel shall remain effective until the trial in district court, unless the request for warrant of detention of the criminal suspect is denied and becomes invalid.

(9) If there is no defense counsel because the appointment of a counsel is cancelled due to the appointed counsel's circumstances or for any other reason, the court may ex officio appoint another defense counsel.

(10) Articles 71, 71-2, 75, 81 through 83, 85 (1), (3), and (4), 86, 87 (1), 89 through 91, and 200-5 shall apply mutatis mutandis to custody under paragraph (2), while Articles 48, 51, 53, 56-2, and 276-2 shall apply mutatis mutandis to examination of a criminal suspect.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 202 (Detention Period by Senior Judicial Police Officer)

Where a senior judicial police officer detains a criminal suspect, the suspect shall be released if he/she is not transferred to the prosecutor within ten days.

Article 203 (Detention Period by Prosecutor)

If a prosecutor detains a criminal suspect or receives a suspect from a senior judicial police officer, the suspect shall be released if a public prosecution is not instituted within ten days.

Article 203-2 (Inclusion of Detention Period)

Where a criminal suspect is arrested or taken into custody as prescribed in Article 200-2, 200-3, 201-2 (2), or 212, the detention period under Article 202 or 203 shall be counted from the date of arresting the suspect or taking the suspect into custody. <Amended by Act No. 5435, Dec. 13, 1997; Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 204 (Issue of Warrant of Arrest or Detention and Notification to Court)

When a criminal suspect is not arrested or detained, or an arrested or detained criminal suspect is released after a warrant of arrest or detention has been issued, a prosecutor shall inform the issuing court in writing as to the reason therefor without delay. <Amended by Act No. 5054, Dec. 29, 1995>

Article 205 (Extension of Detention Period) (1) Where it is deemed that there is a good reason to continue the investigation, a judge of a district court may extend the period prescribed in Article 203, upon request of a prosecutor, and only one such extension shall be granted to the extent not exceeding ten days.

(2) In the case of the request referred to in the preceding paragraph, data justifying the necessity of such extension shall be submitted.

Article 206 Deleted. <by Act No. 5054, Dec. 29, 1995>

Article 207 Deleted. <by Act No. 5054, Dec. 29, 1995>

Article 208 (Restrictions on Re-Detention) (1) Any person who is detained but later released by a prosecutor or a senior judicial police officer shall not be again arrested in connection with the same crime unless other important evidence is found.

(2) In the case of the preceding paragraph, acts which are done simultaneously or in the relation of means and results for one purpose shall be regarded as one and the same criminal act.

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 209 (Provisions Applicable Mutatis Mutandis)

Article 209 (Provisions Applicable Mutatis Mutandis)

Article 210 (Investigation by Judicial Police Officers outside Jurisdiction)

When a judicial police officer investigates an offense outside his/her jurisdiction, or investigates upon request of a judicial police officer of another jurisdiction, he/she shall report thereon to the chief prosecutor of the district prosecutors' office or branch office of his/her jurisdiction: Provided, That where any investigation is being conducted pursuant to Articles 200-3, 212, 214, 216, and 217 and it is urgent, post factum report may be made. <Amended by Act No. 705, Sep. 1, 1961; Act No. 5054, Dec. 29, 1995>

Article 211 (Flagrant Offender and Quasi-Flagrant Offender) (1) A person who is in the act of committing a crime or has just committed it shall be called a flagrant offender.

(2) Any of the following persons shall be regarded as a flagrant offender:

1. An offender who is pursued by hue and cry;
2. Where a person carries stolen goods, or a weapon or other things recognized as being used in connection with a crime;
3. Where there is any apparent evidence on the body or clothes of a criminal suspect;
4. Where a person attempts to flee when challenged.

Article 212 (Arrest of Flagrant Offender)

Any person may arrest a flagrant offender without a warrant.

Article 212-2 Deleted. <by Act No. 3955, Nov. 28, 1987>

Article 213 (Delivery of Arrested Flagrant Offender) (1) Where a person other than a prosecutor or judicial police officer arrests a flagrant offender, he/she shall immediately turn over the offender to a prosecutor or judicial police officer.

(2) Where a judicial police officer has taken delivery of a flagrant offender, he/she shall ask the name, address of the arrester, and the reason for the arrest, and when necessary he/she may request the arrester to accompany him/her to the police station.

(3) Deleted. <by Act No. 3955, Nov. 28, 1987>

Article 213-2 (Provisions Applicable Mutatis Mutandis)

Articles 87, 89, 90, 200-2 (5), and 200-5 shall apply mutatis mutandis where prosecutors or judicial police officers arrest flagrant offenders or take delivery of flagrant offenders. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 3955, Nov. 28, 1987]

Article 214 (Minor Cases and Arrest of Flagrant Offenders)

Articles 212 through 213 shall apply to the flagrant offenders punishable with a fine not exceeding 500,000 won for the maximum amount, misdemeanor imprisonment, or a minor fine only where their dwelling is uncertain. <Amended by Act No. 2450, Jan. 25, 1973; Act No. 3282, Dec. 18, 1980; Act No. 5054, Dec. 29, 1995>

Article 214-2 (Review of Legality of Arrest and Detention) (1) A criminal suspect who is arrested or detained, his/her defense counsel, legal representative, spouse, lineal relative, sibling, family member, cohabitant, or employer may request the competent court to review the legality of the arrest or detention. <Amended by Act No. 3955, Nov. 28, 1987; Act No. 5054, Dec. 29, 1995; Act No. 7427, Mar. 31, 2005; Act No. 8496, Jun. 1, 2007>

<This paragraph supplemented and arranged by paragraphs (4) and (5) amended by Act No. 7225 on October 16, 2004, following the decision on incompatibility with the Constitution which was made by the Constitutional Court on March 25, 2004>

(2) A prosecutor or a senior judicial police officer who has arrested or detained a criminal suspect shall notify the arrested or detained criminal suspect or a person designated by the suspect among the persons specified in paragraph (1) that the suspect has a right to request for the review on legality of the arrest or detention under paragraph (1). <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(3) If a request made under paragraph (1) falls under any of the following, the court may deny the request by its ruling, without necessarily holding a hearing for examination under paragraph (4): <Amended by Act No. 3955, Nov. 28, 1987; Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

1. Where the request is made by a person who has no right to petition or is filed again for the same warrant of arrest or detention;
2. Where it is obvious that accomplices or co-suspects file requests in succession with an intention to interfere with investigation.

(4) Upon receiving a request under paragraph (1), the court shall examine the criminal suspect arrested or detained, relevant documents, and evidence within 48 hours from the time on which the request is filed, and either shall deny the request by its ruling if there is no valid ground for the request or shall order the release of the arrested or detained suspect by its ruling if there is a valid ground for the request. The foregoing shall also apply where a public prosecution is instituted against the suspect after the request for review is made. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 7225, Oct. 16, 2004; Act No. 8496, Jun. 1, 2007>

(5) The court may order the release of the detained criminal suspect (including any criminal suspect against whom a public prosecution is instituted after the petition for review is filed) referred to in paragraph (4) by its ruling under the condition of payment of bail money to guarantee appearance of the criminal suspect: Provided, That the foregoing shall not apply to any of the following cases: <Newly Inserted by Act No. 5054, Dec. 29, 1995; Act No. 7225, Oct. 16, 2004; Act No. 8496, Jun. 1, 2007>

1. Where there is a good reason to believe that the criminal defendant is likely to destroy evidence of a crime;
2. Where there is a good reason to believe that the criminal defendant does harm to or is likely to do harm to the life, body, or property of a victim, a person who is deemed to know the facts necessary for the trial of the case, or such person's relatives.

(6) In cases of the ruling on release under paragraph (5), restriction to dwelling, duty to attend on the date and place designated by the court or prosecutor, or other proper conditions may be added. <Newly Inserted by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

(7) Articles 99 and 100 shall apply mutatis mutandis to the case of release granted under the condition of payment of bail money pursuant to paragraph (5). <Newly Inserted by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

(8) The ruling of the court made pursuant to paragraphs (3) and (4) shall not be subject to complaint.

<Amended by Act No. 8496, Jun. 1, 2007>

(9) A prosecutor, a defense counsel, and a requester may appear before the court and present their views on the date of the examination under paragraph (4). <Amended by Act No. 8496, Jun. 1, 2007>

(10) When the arrested or detained criminal suspect is not represented by a defense counsel, Article 33 shall be apply mutatis mutandis. <Amended by Act No. 5054, Dec. 29, 1995>

(11) In holding a hearing under paragraph (4), the court shall examine accomplices separately or take other measures appropriate for protecting the secret in investigation. <Amended by Act No. 8496, Jun. 1, 2007>

(12) The judge who has issued a warrant of arrest or detention may not participate in the examination, investigation, and ruling under paragraphs (4) through (6): Provided, That this shall not apply where there is no other judge who examines, investigates, or makes a ruling, except the judge who has issued a warrant of arrest or detention. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

(13) The period of time from the date on which the court receives investigation-related documents and evidential materials to the date on which such documents and materials are returned to the prosecutors' office after making a ruling shall not be included in the period of restriction for the purpose of applying Articles 200-2 (5) (including cases applicable mutatis mutandis under Article 213-2) and 200-4 (1), while the aforementioned period of time shall not be included in the period of detention for the purpose of applying Articles 202, 203, and 205. <Amended by Act No. 8496, Jun. 1, 2007>

(14) Article 201-2 (6) shall apply mutatis mutandis to a hearing for examination of a criminal suspect under paragraph (4). <Newly Inserted by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 3282, Dec. 18, 1980]

Article 214-3 (Restriction on Re-Arrest and Re-Detention) (1) The criminal suspect who has been released through the review of legality of arrest or detention under Article 214-2 (4) shall not be re-arrested or re-detained for the same crime, unless he/she flees or destroys the evidence. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

(2) The criminal suspect who has been released under Article 214-2 (5) shall not be re-arrested or re-detained for the same crime, unless he/she falls under any of the following: <Newly Inserted by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

1. When he/she has fled;
2. When there is a good reason to believe that he/she is likely to flee or destroy evidence;
3. When he/she does not appear without good cause upon the request for appearance;
4. When he/she violates the restriction to domicile or other conditions determined by the court.

[This Article Newly Inserted by Act No. 3282, Dec. 18, 1980]

Article 214-4 (Confiscation of Bail Money) (1) In any of the following cases, the court may confiscate all or part of the bail money which has been paid under Article 214-2 (5), ex officio or upon request of a prosecutor, by its ruling: <Amended by Act No. 8496, Jun. 1, 2007>

1. Where a person who has been released under Article 214-2 (5) is re-detained for reasons listed in Article 214-3 (2);
2. Where the court, after institution of public prosecution, re-detains the criminal suspect who has been released under Article 214-2 (5) for the same criminal facts.

(2) Where a person who had been released under Article 214-2 (5) and was summoned for enforcement after he/she was sentenced to a final judgment for the same crime, does not appear without good cause or flees, the court shall, confiscate all or part of the bail money, ex officio or upon request of a prosecutor, by its ruling. <Amended by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 215 (Seizure, Search and, Inspection) (1) If necessary for the investigation of crimes, prosecutors may seize, search, or inspect articles or persons according to the warrant issued by a judge of the competent district court upon request of the prosecutors, only when there are circumstances where a criminal suspect is suspected of having committed a crime and the articles or persons to be seized, searched, or inspected are deemed to be connected with the relevant case.

(2) If necessary for the investigation of crimes, senior judicial police officers may seize, search, or inspect articles or persons according to the warrant issued by a judge of the competent district court upon request of a prosecutor who is requested by the senior judicial police officers, only when there are circumstances where a criminal suspect is suspected of having committed a crime and the articles or persons to be seized, searched, or inspected are deemed to be connected with the relevant case.

[This Article Wholly Amended by Act No. 10864, Jul. 18, 2011]

Article 216 (Compulsory Disposition without Warrant) (1) Where a prosecutor or senior judicial police officer arrests or detains a criminal suspect under Article 200-2, 200-3, 201 or 212, he/she may, if necessary, take the following measures without a warrant: <Amended by Act No. 5054, Dec. 29, 1995>

1. To investigate a criminal suspect in the dwelling of another person or houses, buildings, airplanes, vessels, or vehicles which are guarded by other persons;
2. To seize, search and inspect at the locus of the arrest.

(2) The provisions of subparagraph 2 of the preceding paragraph shall apply mutatis mutandis where a prosecutor or senior judicial police officer executes a warrant of arrest against the criminal defendant.

(3) If it is impossible to obtain a warrant issued by a judge of the court because of urgency at the scene of an offense, seizure, search, or inspection of evidence may be conducted without a warrant. In this case, a warrant shall be obtained after such act without delay. <Newly Inserted by Act No. 705, Sep. 1, 1961>

Article 217 (Compulsory Disposition without Warrant) (1) If it is necessary to urgently seize an article owned, possessed, or kept by a person arrested pursuant to Article 200-3, a prosecutor or a senior judicial police officer may seize, search, or inspect such article without a warrant within 24 hours from the time of arrest.

(2) If it is necessary to keep in custody continuously an article seized pursuant to paragraph (1) or Article 216 (1) 2, a prosecutor or a senior judicial police officer shall make a request for a warrant of seizure and search without delay. In this case, such request for a warrant of seizure and search shall be filed within 48 hours from the time of arrest.

(3) If a prosecutor or a senior judicial police officer fails to have a warrant of seizure and search issued as requested pursuant to paragraph (2), he/she shall return the seized article immediately.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 218 (Seizure without Warrant)

A prosecutor or senior judicial police officer may seize an article which has been discarded by a criminal suspect or any other person, or those which have been voluntarily produced by their owner, possessor, or custodian without a warrant.

Article 218-2 (Return or Temporary Return of Seized Articles) (1) A prosecutor shall return or temporarily return, seized articles which are no longer deemed necessary to seize in such case as their copies are secured, or articles to be used as evidence, upon request of the owner, possessor, custodian, or presenter, even before a prosecution is filed.

(2) Where the prosecutor refuses to accept the request under paragraph (1), the applicant may apply for a decision on return or temporary return of the seized articles with a court corresponding to the prosecutors' office to which the relevant prosecutor belongs.

(3) Where the court decides return or temporary return with respect to the application under paragraph (2), the prosecutor shall return or temporarily return the seized articles to the applicant.

(4) Paragraphs (1) through (3) shall apply mutatis mutandis to the disposition of return or temporary return by senior judicial police officers. In such cases, the senior judicial police officers shall receive instructions from a prosecutor.

[This Article Newly Inserted by Act No. 10864, Jul. 18, 2011]

Article 219 (Provisions Applicable Mutatis Mutandis)

Articles 106, 107, 109 through 112, 114, the main body of paragraph (1) and paragraph (2) of Article 115, and Articles 118 through 132, 134, 135, 140, 141, 333 (2), and 486 shall apply mutatis mutandis to seizure, search, or inspection by a prosecutor or senior judicial police officer under the provisions of this Chapter: Provided, That the senior judicial police officer shall receive instructions from a prosecutor prior to making dispositions under Articles 130, 132 and 134. <Amended by Act No. 3282, Dec. 18, 1980; Act No. 8496, Jun. 1, 2007; Act No. 10864, Jul. 18, 2011>

Article 220 (Urgent Disposition)

Dispositions taken pursuant to Article 216 shall not be governed by Article 123 (2) or 125, in the event of urgency.

Article 221 (Request for Appearance of Third Party) (1) If necessary for investigation, a prosecutor or a senior judicial police officer may request any person other than a criminal suspect to make an appearance in order to hear a statement of facts from the person. In this case, such statement may be recorded by a video recording system, with the consent of the person.

(2) If necessary for investigation, a prosecutor or a senior judicial police officer may commission a person to provide authentication, interpretation, or translation service.

(3) Article 163-2 (1) through (3) shall apply mutatis mutandis to the investigation of victims of a crime by a prosecutor or a senior judicial police officer.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 221-2 (Request for Interrogation of Witness) (1) Where persons who are deemed likely to know facts that are indispensable for the investigation of crimes refuse to appear or make statements under the preceding Article, prosecutors may request judges to interrogate them as witnesses only before the date of the first trial day.

(2) Deleted. <by Act No. 8496, Jun. 1, 2007>

<This paragraph deleted by Act No. 8496 on June 1, 2007, following the decision on unconstitutionality made by the Constitutional Court on December 26, 1996>

(3) A request under paragraph (1) shall be made in writing with justifiable reasons therefor clearly

stated. <Amended by Act No. 8496, Jun. 1, 2007>

(4) The judges to whom the request under paragraph (1) is submitted shall have the same authority as that of the competent court or presiding judge concerning the interrogation of witnesses. <Amended by Act No. 8496, Jun. 1, 2007>

(5) When the judge has set a date for examination of witness upon receiving a request under paragraph (1), he/she shall notify the criminal defendant, criminal suspect, or defense counsel of the date to ensure that they can participate in the examination of witness. <Amended by Act No. 8496, Jun. 1, 2007>

(6) When judges have conducted the interrogation of witnesses based on the request under paragraph (1), they shall without delay send the related documents to the prosecutor concerned. <Amended by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 221-3 (Commission of Expert Opinion and Request for Confinement for Expert Opinion)

(1) Where an expert opinion is commissioned pursuant to Article 221, if confinement for expert opinion under Article 172 (3) is required, a prosecutor shall file a request therefor to a judge. <Amended by Act No. 3282, Dec. 18, 1980>

(2) When a judge deems a request under paragraph (1) appropriate, he/she shall effect the confinement for expert opinion. In this case, Articles 172 and 172-2 shall apply mutatis mutandis.

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 221-4 (Permit of Disposition Necessary for Expert Opinion) (1) Persons who are commissioned to give an expert opinion pursuant to Article 221 may conduct the dispositions under Article 173 (1), with the permission of a judge.

(2) The request for the permission under paragraph (1) shall be made by prosecutors. <Amended by Act No. 3282, Dec. 18, 1980>

(3) If the request under paragraph (2) is deemed appropriate, a judge shall issue a permit. <Amended by Act No. 3282, Dec. 18, 1980>

(4) Articles 173 (2), (3), and (5) shall apply mutatis mutandis to a permit referred to in paragraph (3).

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 222 (Investigation of Unnaturally Dead Persons) (1) With regard to the body of a person who died an unnatural death or is suspected of having died an unnatural death, a prosecutor of a district prosecutors' office which has jurisdiction over the place where the body has been discovered shall investigate the body.

(2) Where it is deemed that there is a suspicion of a crime due to a death investigation referred to in the preceding paragraph and it is urgent, such inspection may be conducted without a warrant. <Newly Inserted by Act No. 705, Sep. 1, 1961>

(3) A prosecutor may order a senior judicial police officer to take dispositions referred to in the preceding two paragraphs. <Newly Inserted by Act No. 705, Sep. 1, 1961>

Article 223 (Persons Entitled to File Criminal Complaint)

A victim of a crime may file a criminal complaint.

Article 224 (Limitation of Criminal Complaint)

A criminal complaint shall not be lodged against a lineal ascendant of the principal himself/herself or of his/her spouse.

Article 225 (Complainants who are Not Victims) (1) A legal representative of a victim may file a criminal complaint independently.

(2) On the death of the victim, his/her spouse or any of his/her lineal relatives or siblings may file a criminal complaint: Provided, That he/she shall not file a criminal complaint against the express intention of the injured party.

Article 226 (Idem)

Where the legal representative of a victim or a relative of the said legal representative is the criminal suspect, a relative of the victim may file a criminal complaint independently.

Article 227 (Idem)

In respect to an offense defaming the deceased, any of his/her relatives or descendants may file a criminal complaint.

Article 228 (Designation of Persons Entitled to File Criminal Complainant)

Where there is no person to file a criminal complaint in respect to an offense subject to prosecution on complaint, a prosecutor shall, upon request of any person interested, designate a person who can file a criminal complaint within ten days.

Article 229 (Criminal Complaint by Spouse) (1) In the case of Article 241 of the Criminal Act, a criminal complaint shall not be filed unless the marriage is void or divorce action is instituted. <Amended by Act No. 8496, Jun. 1, 2007>

(2) In the case of the preceding paragraph, the criminal complaint shall be considered withdrawn if the complainant and the criminal defendant are married again or the divorce action is withdrawn.

Article 230 (Period of Criminal Complaint) (1) In respect to the offenses subject to prosecution on complaint, no criminal complaint shall be made after the lapse of six months from the date on which the identity of the offender becomes known: Provided, That when reasons due to force majeure prevent the filing of a criminal complaint, the period shall be computed from the date on which such reasons have ceased to exist.

(2) Deleted. <by Act No. 11731, Apr. 5, 2013>

Article 231 (Several Persons Entitled to File Criminal Complaint)

If there are two or more persons entitled to file a complaint, failure by one of them to observe the term for criminal complaint shall not operate against other's criminal complaint.

Article 232 (Revocation of Criminal Complaint) (1) A criminal complaint may be withdrawn before the pronouncement of judgment in the first instance.

(2) A person who has withdrawn a criminal complaint shall not file a criminal complaint again.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to cases in which an expression of intent for punishment is withdrawn in a case which cannot be prosecuted against the clearly expressed intention of the victim.

Article 233 (Indivisibility of Criminal Complaint)

Criminal complaints filed against one or more of the co-offenders in an offense subject to prosecution on complaint, or revocation thereof, shall also take effect in respect to the other accomplices.

Article 234 (Accusation) (1) Any person who believes that an offense has been committed may lodge an accusation.

(2) When a public official in the course of his/her duty believes that an offense has been committed,

he/she shall lodge an accusation.

Article 235 (Limitation of Accusation)

Article 224 shall apply mutatis mutandis to the accusation.

Article 236 (Criminal Complaints by Proxy)

A criminal complaint may be lodged or withdrawn by proxy.

Article 237 (Methods of Criminal Complaints or Accusations) (1) A criminal complaint and accusation shall be filed with a prosecutor or senior judicial police officer in writing or orally.

(2) On receipt of an oral criminal complaint or accusation, a prosecutor or senior judicial police officer shall draw up a protocol.

Article 238 (Criminal Complaints or Accusations and Measures taken by Senior Judicial Police Officers)

When a senior judicial police officer receives a criminal complaint or accusation, he/she shall investigate the relevant documents and evidential materials pertaining thereto promptly and transfer them to a prosecutor.

Article 239 (Provisions Applicable Mutatis Mutandis)

The provisions of the preceding two Articles shall apply mutatis mutandis to the withdrawal of a criminal complaint or accusation.

Article 240 (Self-Denunciation and Provisions Applicable Mutatis Mutandis)

Articles 237 and 238 shall apply mutatis mutandis to a self-denunciation.

Article 241 (Interrogation of Criminal Suspect)

Before interrogating a criminal suspect, a prosecutor or senior judicial police officer shall confirm the identity of the suspect by asking his/her name, age, reference domicile, domicile, and occupation. <Amended by Act No. 8435, May 17, 2007>

Article 242 (Matters concerning Interrogation of Criminal Suspect)

A prosecutor or senior judicial police officer shall interrogate the subject as to the necessary matters concerning the facts and conditions of the offense and shall give the criminal suspect an opportunity to state facts beneficial to himself.

Article 243 (Interrogation of Criminal Suspect and Attendant)

When a prosecutor interrogates a criminal suspect, he/she shall have an administrative officer, a clerk, or an investigator of the prosecutors' office present at the place, while a senior judicial police officer shall have another judicial police officer present at the place when he/she interrogates a criminal suspect. <Amended by Act No. 8496, Jun. 1, 2007; Act No. 8730, Dec. 21, 2007>

Article 243-2 (Defense Counsel's Participation) (1) Upon receiving an application from a criminal suspect, his/her defense counsel, legal representative, spouse, lineal relative, or sibling, a prosecutor or a senior judicial police officer shall allow the defense counsel to have an interview with the suspect or shall allow the defense counsel to participate in the interrogation of the suspect, unless there is good cause.

(2) If there are two or more defense counsel who desire to participate in the interrogation, the criminal suspect shall designate one counsel to participate in the interrogation. If there is no counsel so designated, the prosecutor or senior judicial police officer may designate one.

(3) The defense counsel who participates in the interrogation may make a statement on his/her

opinion after interrogation: Provided, That the counsel may raise an objection to any unfair interrogation manner even in the middle of the interrogation and may also make a statement, with the approval from the prosecutor or the senior judicial police officer.

(4) The defense counsel shall be allowed to inspect the protocol concerning interrogation of a criminal suspect that contains the counsel's opinion under paragraph (3) and then shall print his/her name and affix his/her seal or write his/her signature thereon.

(5) The prosecutor or the senior judicial police officer shall describe the matters concerning the participation of the defense counsel in interrogation and the limitations thereon in the protocol concerning interrogation of a criminal suspect.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 244 (Formation of Protocol concerning Interrogation of Criminal Suspect) (1) The statement of a criminal suspect shall be entered in the protocol.

(2) The protocol under paragraph (1) shall be made available to the criminal suspect for inspection or shall be read to him/her; the suspect shall be asked whether or not there is any ommission or any fact mistakenly described; and then any objection raised or any statement made by the suspect, including a motion for addition, subtraction, or modification, shall be recorded additionally in the protocol. In this case, the part against which the suspect raised an objection shall be kept readable. <Amended by Act No. 8496, Jun. 1, 2007>

(3) If the criminal suspect states that he/she has no objection or any other opinion concerning the protocol, the suspect shall be required to write such statement in his/her own hand, affix his/her seal between pages of the protocol, and print his/her name and affix his/her seal or write his/her signature thereon. <Amended by Act No. 8496, Jun. 1, 2007>

Article 244-2 (Video Recording of Criminal Suspect's Statements) (1) The statements made by a criminal suspect may be recorded by a video recording system. In this case, the suspect shall be informed of video recording in advance, and the entire process from the beginning to the end of interrogation and the objective circumstances shall be recorded by the video recording system.

(2) Once the video recording under paragraph (1) is finished, the original recording medium shall be sealed without delay in the presence of the criminal suspect or his/her defense counsel, and the suspect shall be required to print his/her name and affix his/her seal or write his/her signature thereon.

(3) Upon a demand by the criminal suspect or his/her defense counsel in the case of paragraph (2), the video-recorded product shall be replayed for viewing. In such cases, if there is any objection raised to its contents thereof, the purport of such objection shall be put down in writing and shall be attached to the product.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 244-3 (Announcement of Right to Refuse to Make Statements and Other Rights) (1) A prosecutor or a senior judicial police officer shall inform a criminal suspect of the following matters prior to interrogation:

1. The suspect has a right to remain silent or make no statement for each question;
2. Remaining silent cannot be used against the suspect;
3. A statement made by the suspect by waiving the right to refuse to make a statement can be used as evidence for being guilty in the court;
4. The criminal suspect has a right to have the assistance of defense counsel, including the

counsel's participation in interrogation.

(2) The prosecutor or senior judicial police officer who informed a criminal suspect of the matters under paragraph (1) shall ask the suspect whether he/she will exercise the right to remain silent and the right to have the assistance of counsel and shall write down the suspect's answer thereof on the protocol. In this case, the suspect shall be required to write down his/her answer in his/her own hand, or if the prosecutor or judicial senior police officer writes down the suspect's answer, then the suspect shall be required to print his/her name and affix his/her seal or write his/her signature on the part that describes his/her answer.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 244-4 (Recording of Investigation Process) (1) The prosecutor or senior judicial police officer shall record the time on which the criminal suspect arrived at the interrogation place, the time on which the interrogation began and ended, and other matters necessary for confirming the developments of the interrogation process on the protocol concerning interrogation of a criminal suspect or shall make a record of such matters as a separate document and then incorporate the document into the protocol of interrogation.

(2) Article 244 (2) and (3) shall apply mutatis mutandis to the protocol or document under paragraph (1).

(3) Paragraphs (1) and (2) shall apply mutatis mutandis to the investigation on the person other than the criminal suspect.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 244-5 (Special Rules for Those who Need Special Protection including Disabled Persons)

If a criminal suspect under interrogation falls under any of the following, a prosecutor or a senior judicial police officer may allow a person who has a reliable relationship with the suspect to sit in company with the suspect, ex officio or upon receiving a petition from the suspect or his/her legal representative:

1. If the suspect lacks the ability to discern right from wrong or make and communicate a decision due to a physical disability or mental disorder;
2. If it is necessary to facilitate psychological stability and smooth communications, considering the age, gender, nationality, or any other aspect of the suspect.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 245 (Cross Examination)

If necessary to determine the facts, a prosecutor or senior judicial police officer may cross examine each suspect or persons other than the suspect.

Article 245-2 (Participation of Professional Investigative Adviser) (1) If necessary to clarify facts in relation to determination on whether to prosecute a criminal suspect, the prosecutor may designate a professional investigative adviser, ex officio or upon request of the suspect or his/her defense counsel, to have the adviser participate in investigation and hear his/her advice.

(2) A professional investigative adviser may submit an explanation or his/her opinion based on his/her expertise in writing or may make an oral statement on such explanation or opinion based on his/her expertise.

(3) As regards the written statement submitted by a professional investigative adviser or such adviser's oral statement on explanation or opinion under paragraph (2), the prosecutor shall give the

criminal suspect or his/her defense counsel to make a statement, oral or in writing, on his/her opinion.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 245-3 (Designation of Professional Investigative Adviser) (1) Where the prosecutor intends to have a professional investigative adviser participate in investigation under Article 245-2 (1), he/she shall designate one or more professional investigative advisers for each case.

(2) The prosecutor may, if deemed proper, revoke the designation of a professional investigative adviser.

(3) A criminal suspect or his/her defense counsel may file an objection against the prosecutor's designation of a professional investigative adviser with the chief prosecutor of the relevant high prosecutors' office.

(4) A professional investigative adviser shall be entitled to compensation, and other expenses, including travel expense, daily allowance, and accommodations, if necessary, may be paid to him.

(5) The procedures and methods for, designation of a professional investigative adviser, revocation thereof, and filing of an objection, the payment of allowance, and other necessary matters shall be prescribed by Ordinance of the Ministry of Justice.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 245-4 (Provisions Applicable Mutatis Mutandis)

Articles 279-7 and 279-8 shall apply mutatis mutandis to professional investigative advisers to a prosecutor.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

## CHAPTER II PUBLIC PROSECUTION

Article 246 (Principle of Public Prosecution by State)

A public prosecution shall be instituted and executed by a prosecutor.

Article 247 (Principle of Discretionary Indictment)

A prosecutor may decide not to institute a public prosecution, considering the matters under Article 51 of the Criminal Act.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 248 (Effect of Public Prosecution) (1) A public prosecution shall not be effective to any person other than a person designated by a prosecutor as the criminal defendant.

(2) A public prosecution instituted against a part of facts of a crime shall be effective to the crime as a whole.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 249 (Limitation Periods for Public Prosecution) (1) The prescription for public prosecution shall expire after lapse of the following terms: <Amended by Act No. 2450, Jan. 25, 1973; Act No. 8730, Dec. 21, 2007>

1. 25 years for crimes punishable with death penalty;
2. 15 years for crimes punishable with imprisonment, with or without labor, for an indefinite term;
3. Ten years for crimes punishable with imprisonment, with or without labor, for a maximum term of not less than ten years;
4. Seven years for crimes punishable with imprisonment, with or without labor, for a maximum term of less than ten years;

5. Five years for crimes punishable with imprisonment, with or without labor, for a maximum term of less than five years; suspension of qualifications for a maximum term of not less than ten years; or a fine;
6. Three years for crimes punishable with suspension of qualifications for a maximum term of not less than five years;
7. One year for crimes punishable with suspension of qualifications for a maximum term of less than five years, misdemeanor imprisonment, a minor fine, or confiscation.

(2) The limitation periods for a crime for which a public prosecution has been instituted and in which no final judgment has been rendered shall be 25 years from the date of the institution of such public prosecution. <Newly Inserted by Act No. 705, Sep. 1, 1961; Act No. 8730, Dec. 21, 2007>

Article 250 (Two or More Penalties and Period for Indictment)

In regard to crimes punishable by the joint imposition of two or more principal penalties or by the imposition of one from among two or more principal penalties, the provisions of the preceding Article shall apply with reference to the heaviest penalty.

Article 251 (Increase or Decrease of Penalty and Limitation Periods)

When a penalty is to be increased or commuted in accordance with the Criminal Act, Article 249 shall apply with reference to the penalty before increase or commutation. <Amended by Act No. 8496, Jun. 1, 2007>

Article 252 (Commencement of Limitation Periods) (1) A limitation period shall commence to run after the criminal act is completed.

(2) In regard to complicity, the limitation period against accomplices shall commence to run at the time when the criminal action has ceased finally.

Article 253 (Suspension of Limitation Period and Its Effect) (1) The limitation period shall cease to toll on the institution of the public prosecution and begin to toll when a judgment rejecting a public prosecution or a judgment indicating a violation of jurisdiction becomes final and conclusive. <Amended by Act No. 705, Sep. 1, 1961>

(2) When a public prosecution is instituted against one of several accomplices referred to in the preceding paragraph, the tolling of the limitation period shall be suspended as to the other accomplices and shall begin to toll again when a judgment on the case concerned becomes finally binding. <Amended by Act No. 705, Sep. 1, 1961>

(3) The limitation period shall be suspended during the period, for which an offender stays abroad for the purpose of escaping criminal punishment. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

Article 253-2 (Exclusion from Application of Prescription for Public Prosecution)

The prescription for public prosecution prescribed in Articles 249 through 253 shall not apply to a crime of killing a person (excluding accessories) which is punishable with death penalty.

[This Article Newly Inserted by Act No. 13454, Jul. 31, 2015]

Article 254 (Methods of Instituting Public Prosecution and Bill of Indictment) (1) The institution of public prosecution shall be made by filing a bill of indictment with a competent court.

(2) Copies, equal to the number of criminal defendants shall be annexed to the bill of indictment.

(3) The bill of indictment shall contain the following matters:

1. The names of the criminal defendants and other matters by which the criminal defendants can be identified;

2. The name of the crime;

3. The facts charged;

4. The applicable provisions of Acts.

(4) The facts charged shall be stated clearly by specifying the time and date, place, and method of a crime.

(5) Several separate charges or several applicable provisions of Acts may be stated in preliminarily or alternatively.

Article 255 (Withdrawal of Public Prosecution) (1) A public prosecution may be withdrawn before a judgment in the first instance is rendered.

(2) A withdrawal of a public prosecution shall be made on a document stating the reason: Provided, That as to withdrawal by the court, it may be stated orally.

Article 256 (Commitment to Other Jurisdiction)

If a prosecutor considers that the case does not come within the jurisdiction of the court corresponding to the prosecutors' office to which he/she belongs, he/she shall transfer the case, together with the documents and articles of evidence, to a prosecutor of the prosecutors' office corresponding to the competent court.

Article 256-2 (Transfer of Cases to Military Prosecutors)

Where the case falls under the jurisdiction of the military court, prosecutors shall transfer the case to the prosecutors of the prosecution division of the competent military court with related documents and articles of evidence attached. In this case, the acts of litigation already done before the transfer shall not lose the effect thereof by reason of the transfer. <Amended by Act No. 3955, Nov. 28, 1987>

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 257 (Cases upon Criminal Complaints, etc.)

Where a prosecutor investigates a crime based on a criminal complaint or accusation, he/she shall determine whether public prosecution shall be instituted or not within three months after the criminal complaint or accusation has been received.

Article 258 (Disposition to Complainant) (1) If, in a case in which a criminal complaint or accusation has been lodged, the prosecutor has decided to or not to institute a public prosecution, withdrawn public prosecution, or sent the case to a prosecutor of another prosecutors' office pursuant to Article 256, the prosecutor shall inform the complainant or accuser in writing, of the gist thereof, within seven days after such disposition has been made.

(2) Where a prosecutor has decided not to institute a public prosecution or taken a disposition pursuant to Article 256, he/she shall promptly inform the criminal suspect of the gist thereof.

Article 259 (Notice not to Institute Public Prosecution to Complainant)

With respect to a case in which criminal complaint, accusation, or demand has been lodged, if a disposition not to institute a public prosecution has been made, the prosecutor shall, upon request of the complainant or accuser, promptly inform such complainant or accuser of the reasons therefor in writing within seven days.

Article 259-2 (Notice to Victims)

A prosecutor shall, promptly upon receiving an application from a victim of a crime or his/her legal representative (including a victim's spouse, lineal relative, and sibling, if the victim is dead), notify the applicant of whether the indictment has been instituted for the crime, the time and place of trial, the result of trial, and the facts about detention such as whether the criminal suspect or the criminal defendant is detained or released.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 260 (Application for Adjudication) (1) If a person who has filed a criminal complaint with a right to file such criminal complaint (including those who have filed an accusation against crimes under Articles 123 through 126 of the Criminal Act; hereafter the same shall apply in this Article), receives a notice of non-prosecution from a prosecutor, he/she may file an application for adjudication to find whether such disposition is properly made with the high court having jurisdiction over the venue where the district prosecutors' office to which the prosecutor belong is situated (hereinafter referred to as "competent high court"): Provided, That with respect to a crime referred to in Article 126 of the Criminal Act, an application for adjudication shall not be filed against the clearly expressed intention of the publicized. <Amended by Act No. 10864, Jul. 18, 2011>

(2) The application for adjudication under paragraph (1) shall be filed subsequent to a complaint under Article 10 of the Prosecutors' Office Act: Provided, That the foregoing shall not apply where any of the following events occurs:

1. Where the case was investigated again after filing a complaint to the prosecution but it has been notified again that the case would not be prosecuted;
2. Where no disposition on a complaint to the prosecution has been made for three months since the complaint was filed;
3. Where the prosecutor has not prosecuted the case by 30 days before the prescription of the public prosecution expires.

(3) A person who intends to file an application for adjudication under paragraph (1) shall file the application with the chief prosecutor of the district prosecutors' office or of its branch office within ten days from the date on which a decision to dismiss a complaint was notified or on which an event under any subparagraph of paragraph (2) occurred: Provided, That a person may file an application for adjudication by the day immediately before the end of prescriptive period of public prosecution, in the case of paragraph (2) 3.

(4) An application for adjudication shall describe the grounds justifying the application for adjudication, including the facts and evidence relevant to the crime alleged in the case for which such application is filed.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 261 (Disposition by Chief Prosecutor of District Prosecutors' Office or of its Branch Office)

Upon receiving an application for adjudication under Article 260 (3), the chief prosecutor of the district prosecutors' office or of its branch office shall forward the petition for adjudication along with his/her opinion letter, documents relating to investigation, and evidential materials to the competent high court through the competent high prosecutors' office within seven days from the date of filing the application: Provided, That if the application falls under any subparagraph of Article 260 (2), the chief prosecutor of the district prosecutors' office or of its branch office shall process the application in one of the following manners as the case may be:

1. If it is deemed that the application has a reasonable ground, the public prosecution for the case shall be initiated immediately and notify the competent high court and the applicant for adjudication

thereof;

2. If it is deemed that the application has no reasonable ground, the case shall be forwarded to the competent high court within 30 days.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 262 (Examination and Ruling) (1) Upon receiving an application for adjudication, the court shall notify the criminal suspect of the application within ten days from the date on which the application was forwarded.

(2) The court shall render one of the following rulings for an application for adjudication, depending upon the case, in accordance with the procedure for complaint within three months from the date on which the application was forwarded. In this case, the court may examine relevant evidences, if necessary:

1. The court shall deny the application, if it is held that it does not conform to the legal form or has no ground;
2. The court shall render a ruling to institute public prosecution, if it is held that the application has a ground.

(3) The examination on a case of application for adjudication shall be conducted behind closed doors, except in any extraordinary circumstances.

(4) An immediate complaint under Article 415 may be raised against a ruling under subparagraph 1 of paragraph (2), and no objection shall be raised against a ruling under subparagraph 2 of paragraph (2). A case for which a ruling under paragraph (2) 1 becomes final and conclusive may not be subject to public prosecution, except where any other important evidence is discovered later. <Amended by Act No. 13720, Jan. 6, 2016>

(5) Upon rendering the ruling under paragraph (2), the court shall forward each authentic copy of the ruling to the applicant for adjudication, the criminal suspect, and the chief prosecutor of the relevant district prosecutors' office or its branch office without delay. In such cases, an authentic copy of the ruling under paragraph (2) 2 shall be forwarded together with the case record to the chief prosecutor of the relevant district prosecutors' office or of its branch office.

(6) Upon receiving a written decision on adjudication under paragraph (2) 2, the chief prosecutor of the relevant district prosecutors' office or of its branch office shall assign a prosecutor to take charge of the case without delay, and the assigned prosecutor shall institute the public prosecution accordingly.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 262-2 (Restriction on Inspection and Copying of Case Record of Application for Adjudication)

No one may be allowed to inspect or copy the documents and evidential materials relating to a case of application for adjudication while the case is examined: Provided, That the court may permit a party to inspect or copy all or part of documents prepared in the proceedings of examination of evidence under the latter part of Article 262 (2).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 262-3 (Liability for Expenses) (1) When the court renders a ruling under Article 262 (2) 1 or the withdrawal under Article 264 (2) occurs, it may require the applicant for adjudication to bear all or part of the expenses incurred in the proceedings for the application, by its decision.

(2) The court may, ex officio or upon a motion of the criminal suspect, order the applicant for

adjudication to pay all or part of the expenses that the suspect has paid or shall pay, including attorney fees for the application procedures for the adjudication.

(3) An immediate complaint may be filed against the ruling under paragraphs (1) and (2).

(4) The scope of expenses payable under paragraphs (1) and (2) and the procedure for payment of such expenses shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 262-4 (Interruption of Prescriptive Period for Public Prosecution) (1) Once an application for adjudication under Article 260 is filed, the running of prescriptive period for public prosecution shall be interrupted until the ruling on adjudication under Article 262 becomes final and conclusive. <Amended by Act No. 8730, Dec. 21, 2007; Act No. 13720, Jan. 6, 2016>

(2) Once the ruling under Article 262 (2) 2 is rendered, it shall be deemed that the public prosecution is instituted on the date of such ruling in connection with the prescription of public prosecution.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 263 Deleted. <by Act No. 8496, Jun. 1, 2007>

Article 264 (Application by Proxy, and Effect and Rescission of Application Requested by One Person) (1) Application for adjudication may be filed by proxy and the application by one of joint applicants shall take effect for all the applicants.

(2) Application for adjudication may be withdrawn by the applicant prior to the rendering of the ruling provided in Article 262 (2): Provided, That a person who has withdrawn such application shall not apply again. <Amended by Act No. 8496, Jun. 1, 2007>

(3) The withdrawal referred to in the preceding paragraph shall not take effect for other joint applicants.

Article 264-2 (Restriction on Revocation of Public Prosecution)

A prosecutor may not revoke the public prosecution instituted pursuant to a ruling under Article 262 (2) 2.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 265 Deleted. <by Act No. 8496, Jun. 1, 2007>

## CHAPTER III TRIAL

## SECTION 1 Preparation of and Procedures for Trial

Article 266 (Service of Copy of Bill of Indictment)

When a trial has been instituted, the court shall serve the criminal defendant or his/her defense counsel with a copy of the bill of indictment without delay: Provided, That the service shall be made at least five days prior to the date of the first trial.

Article 266-2 (Submission of Written Opinion) (1) A criminal defendant or his/her defense counsel shall submit a written opinion that states whether he/she admits the facts charged and his/her opinion on the procedure for preparatory proceedings for trial to the court within seven days from the date on which a copy of bill of indictment is served: Provided, That if the criminal defendant refuses to make any statement, a written opinion that describes such situation may be submitted.

(2) Upon receiving a written opinion under paragraph (1), the court shall forward it to the prosecutor.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-3 (Inspection and Copying of Documents and Articles in Custody of Prosecutor

Subsequent to Indictment) (1) A criminal defendant or his/her defense counsel may file an application with the prosecutor for the inspection, copying, or delivery in writing, of a list of documents or articles (hereinafter referred to as "documents") relating to the case indicted and the following documents that are likely to have influence over admission of the facts charged or sentencing: Provided, That if the criminal defendant employes his/her defense counsel, only the inspection shall be applied to the criminal defendant:

1. Documents that the prosecutor would produce as admissible evidence;
2. A paper that describes the names of persons whom the prosecutor plans to produce as witnesses and their involvement in the case or documents that contain statements made prior to trial;
3. Documents relating to the probative value of the paper or documents under subparagraph 1 or 2;
4. Documents relating to arguments made by the criminal defendant or his/her defense counsel on legal or factual matters (including the records of related criminal trial for which adjudication is finally closed and the records of cases for which non-prosecution has been disposed of).

(2) If it is deemed that there is a reasonable ground to disallow the inspection, copying, or delivery in writing, of documents, such as the national security, necessity to protect witnesses, likelihood of destruction of evidence, and specific grounds under which it is anticipated that it is likely to hinder the investigation into related cases, the prosecutor may refuse to allow the inspection, copying, or delivery in writing, of such documents or may place a limitation thereon.

(3) Whenever the prosecutor refuses to allow the inspection or copying, or delivery in writing, or places a limitation thereon, he/she shall give written notice of the reason therefor without delay.

(4) When there is no notice given under paragraph (3) within 48 hours from the time on which the prosecutor received an application under paragraph (1), the criminal defendant or his/her defense counsel may file a motion under Article 266-4 (1).

(5) Notwithstanding paragraph (2), no prosecutor shall refuse to allow to inspect or copy a list of documents.

(6) Documents referred to in paragraph (1) include extraordinary media other than written documents, including drawings, photographs, audio tapes, video tapes, computer discs, and other goods made for the purpose of storing information. In this case, copying of such extraordinary media shall be limited to the minimum necessary information.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-4 (Court Ruling on Inspection or Copying) (1) When a prosecutor refuses to allow the inspection, copying, or delivery in writing, of documents or places a limitation thereon, the defendant or defense counsel may make a motion to the court for allowing the inspection, copying, or delivery in writing, of such documents.

(2) Upon a motion under paragraph (1), the court may order the prosecutor to allow the inspection, copying, or delivery in writing, of documents, considering the type and degree of harm that may be caused when such act is allowed, the criminal defendant's needs for defending the case, the necessity for speedy trial, and the importance of such documents. In such cases, the court may designate the time and method of inspection or copying or put a condition or an obligation thereon.

(3) When the court renders a ruling under paragraph (2), it shall give the prosecutor an opportunity to present his/her opinion.

(4) The court may, if deemed necessary, demand the prosecutor to produce the relevant documents and may also examine the criminal defendant or any other interested party.

(5) If the prosecutor fails to comply with the court's ruling concerning the inspection, copying, or delivery in writing under paragraph (2) without delay, he/she shall not make a motion for admission of relevant witnesses and documents as evidence.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-5 (Preparatory Proceedings Prior to Trial) (1) The presiding judge may put a case to preparatory proceedings for efficient and concentrative examination.

(2) Preparatory proceedings shall be conducted in a way that requires the parties to prepare their arguments, a plan for proving, and other matters in writing or holds a preparatory hearing.

(3) The prosecutor and the criminal defendant or his/her defense counsel shall collect and organize evidences in good order in advance and shall cooperate each other so that the preparatory proceedings prior to trial can be progressed smoothly.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-6 (Submission of Written Statements for Trial Preparation) (1) The prosecutor and the criminal defendant or his/her defense counsel may submit to the court written statements that describe the outlines of their arguments on legal or factual matters, the purport of evidence, and other matters.

(2) The presiding judge may order the prosecutor and the criminal defendant or his/her defense counsel to submit a written statement under paragraph (1).

(3) When written statements are submitted under paragraph (1) or (2), the court shall serve the copies thereof upon the other party.

(4) The presiding judge may demand the prosecutor and the criminal defendant or his/her defense counsel to explain a written statement submitted to the court, including a bill of indictment or may issue any other order as may be necessary for trial preparation.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-7 (Preparatory Hearing Date) (1) The court may set a preparatory hearing date, considering the opinions of the prosecutor and the criminal defendant or his/her defense counsel.

(2) The prosecutor and the criminal defendant or his/her defense counsel may move the court to set a preparatory hearing date. In such cases, no party may raise an objection to the court's ruling on such motion.

(3) The court may assign a judge of a collegiate division to preside over a preparatory hearing. In this case, the assigned judge shall have the same authority as that of the court or the presiding judge as far as a preparatory hearing concerned.

(4) A preparatory hearing shall be open to the public: Provided, That it may be held behind closed doors if it is likely that the proceedings of the hearing might be hindered if open to the public.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-8 (Attendance of Prosecutor and Defense Counsel) (1) The prosecutor and the defense counsel shall attend the preparatory hearing.

(2) Court officials shall participate in the preparatory hearing.

(3) The court shall serve a notice of the preparatory hearing date to the prosecutor, the criminal defendant, and his/her defense counsel.

(4) If no defense counsel is appointed for the case whose preparatory hearing date is designated, the court shall appoint a defense counsel ex officio.

(5) The court may, if deemed necessary, summon the criminal defendant, and the criminal defendant

may appear at the preparatory hearing even when there is no summons from the court.

(6) The presiding judge shall inform the appearing criminal defendant that he/she may refuse to make a statement.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-9 (Matters Relating to Preparatory Hearing) (1) The court may conduct the following acts at a preparatory hearing:

1. An act of clarifying the facts charged or applicable provisions of Acts;
2. An act of permitting addition, withdrawal, or modification of the facts charged or applicable provisions of Acts;
3. An act of clarifying arguments relating to the facts charged to put the issues of the case in order;
4. An act of demanding explanation on the contents that include a difficult calculation or any other complicated description;
5. An act of requiring to file a motion to admit evidence;
6. An act of clarifying the purport and substance of evidence in relation to an evidence for which a motion to admit is made;
7. An act of confirming opinions on a motion to admit evidence;
8. An act of rendering a ruling on whether to admit evidence;
9. An act of setting order and method of examination of evidence;
10. An act of rendering a ruling on a motion made in connection with inspection or copying of documents;
11. An act of setting or changing a trial date;
12. An act of determining other matters necessary for proceedings of trial.

(2) Articles 296 and 304 shall apply mutatis mutandis to the preparatory proceedings.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-10 (Confirmation of Results from Preparatory Hearing) (1) Upon closing the preparatory hearing, the court shall notify the prosecutor and the criminal defendant or his/her defense counsel of the arranged result in connection with issues and evidence of the case and shall make sure whether there is any objection to the result.

(2) The court shall record the result put in order in connection with issues and evidence of the case in the protocol of the preparatory hearing.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-11 (Inspection and Copying of Documents in Custody of Defendant or Defense Counsel) (1) When a criminal defendant or his/her defense counsel makes an assertion concerning legal or factual matters at a trial or a preparatory hearing, such as non-existence at the scene, insanity, or mental weakness, the prosecutor may demand that the criminal defendant or his/her defense counsel should allow the inspection, copying, or delivery in writing, of the following documents:

1. Documents which the criminal defendant or his/her defense counsel intends to make a motion to admit as evidence;
2. A statement that describes the names of persons whom the criminal defendant or his/her defense counsel intends to make a motion to admit as witnesses and their relations with the case;
3. Documents relating the probative value of the documents under subparagraph 1 or the statement under subparagraph 2;

4. Documents relating to the criminal defendant's or his/her defense counsel's assertion made in connection with legal or factual matters.

(2) If the prosecutor has refused to allow the inspection, copying, or delivery in writing, of documents under Article 266-3 (1), the criminal defendant or his/her defense counsel may also refuse to allow the inspection, copying, or delivery in writing, of documents under paragraph (1): Provided, That the foregoing shall not apply where the court rendered a ruling to dismiss the motion under Article 266-4 (1).

(3) If a criminal defendant or his/her defense counsel rejected the demand under paragraph (1), the prosecutor may move the court to allow the inspection, copying, or delivery in writing of, such documents.

(4) Article 266-4 (2) through (5) shall apply mutatis mutandis where the motion under paragraph (3) is filed.

(5) Article 266-3 (6) shall apply mutatis mutandis to the documents referred to in paragraph (1).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-12 (Grounds for Closing Preparatory Proceedings)

The court shall close preparatory proceedings when there is any of the following grounds: Provided, That the foregoing shall not apply where a case falls under subparagraph 2 or 3 and there is a good reason to continue preparatory proceedings:

1. If the issues and evidence have been completely put in order;
2. If it has passed three months since the case was put to preparatory proceedings;
3. If the prosecutor, the defense counsel, or the summoned criminal defendant did not make an appearance.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-13 (Effect of Closing of Preparatory Proceedings) (1) If there is any evidence for which a motion to admit has not been made during preparatory proceedings, a motion to admit such evidence may be made only when there is any of the following grounds:

1. If such motion does not delay the litigation significantly;
2. If the movant shows an unavoidable cause or event that made it impossible to submit the evidence during preparatory proceedings without gross negligence on his/her part.

(2) Notwithstanding paragraph (1), the court may conduct examination of evidence ex officio.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-14 (Provisions Applicable Mutatis Mutandis)

Article 305 shall apply mutatis mutandis to the resumption of preparatory proceedings.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-15 (Preparatory Proceedings During Trial)

If necessary for putting issues and evidence in order, the court may put a case to preparatory proceedings even after the first trial. In such cases, the provisions governing preparatory proceedings prior to trial shall apply mutatis mutandis.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 266-16 (Prohibition on Abuse of Inspected or Copied Documents) (1) A criminal defendant or his/her defense counsel (including a person who was a criminal defendant or a defense counsel; hereafter the same shall apply in this Article) may not deliver or present (including the provision through an electric telecommunications facility) a copy of a statement or documents, which the prosecutor allowed him/her to inspect or copy pursuant to Article 266-3 (1), to any other person for any purpose other than the purpose of using it for preparation of the relevant case or related litigation.

(2) A criminal defendant or a defense counsel who violated paragraph (1) shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding five million won.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 267 (Designation of Date of Trial) (1) The presiding judge shall fix the date for trial.

(2) The criminal defendant, his/her representative, or his/her proxy shall be summoned on the date for trial.

(3) Notice of the date set for trial shall be given to the prosecutor, defense counsel, and assistant.

Article 267-2 (Concentrative Examination) (1) Examination on trial days shall be concentrative.

(2) If two or more days are required for examination, the court shall remain open everyday, except in any unavoidable situations.

(3) The presiding judge may set several dates for trial at a time.

(4) Even when it is impossible to keep the court open everyday due to any unavoidable situation, the presiding judge shall set next dates for trial within the limit of 14 days from the preceding dates for trial, except in any extraordinary circumstances.

(5) A person involved in the litigation shall adhere to dates for trial and make efforts to avoid causing any trouble to examination, and the presiding judge may take measures necessary for such purpose.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 268 (Assumption of Service of Summons)

Where the criminal defendant is within the precincts of a court and is notified by the court of the date for a trial, he/she shall be deemed to have been served with a summons.

Article 269 (Postponement Period before First Trial) (1) The date of the first trial shall be fixed in consideration of not less than five days as a postponement period after the service of the summons.

(2) When the criminal defendant raises no objection thereto, the period referred to in the preceding paragraph may not be considered.

Article 270 (Change of Date of Trial) (1) The presiding judge may change the date fixed for trial, ex officio or upon request of a prosecutor, the criminal defendant, or his/her defense counsel.

(2) An order rejecting an application for a change of the date of trial shall not be served.

Article 271 (Submission of Materials Giving Causes for Absence)

When a person who has been served with a summons for, or given a written notice of, date of trial is not able to appear on the fixed date of trial on account of sickness or other reasons, he/she shall submit a medical certificate or other materials.

Article 272 (Reference to Public Offices, etc.) (1) The court may ask any public office, or public or private organizations, either ex officio or upon request of a prosecutor, the criminal defendant, or his/her defense counsel, for reports on necessary particulars or for preserved documents.

(2) The dismissal of a request referred to in the preceding paragraph shall be determined by a ruling.

Article 273 (Investigation of Evidence before Date of Trial) (1) If deemed necessary for preparatory proceedings, the court may examine the criminal defendant or other witnesses and may order the inspection of evidence, expert evidence, or translation before the date fixed for trial, upon request of the prosecutor, the criminal defendant, or his/her defense counsel.

(2) The presiding judge may request any of his/her associate judges to conduct the action referred to in the preceding paragraph.

(3) The dismissal of a request referred to in paragraph (1) shall be determined by a ruling.

Article 274 (Submission of Evidence by Party before Date of Trial)

A prosecutor and the criminal defendant or his/her defense counsel may submit document or articles as evidence to the court before the date fixed for trial. <Amended by Act No. 705, Sep. 1, 1961>

Article 275 (Hearing in Court Room) (1) A hearing in a trial shall be conducted in a courtroom.

(2) The courtroom shall be open with the judge, the prosecutor, and court officials present. <Amended by Act No. 8496, Jun. 1, 2007>

(3) The prosecutor's seat shall be on the same level as the criminal defendant and the defense counsel's in right and left sides of judges' bench respectively and the seat for a witness shall be in front of judges' bench: Provided, That the criminal defendant shall sit in the witness box when he/she is examined as criminal defendant. <Amended by Act No. 8496, Jun. 1, 2007>

Article 275-2 (Presumption of Innocence)

The criminal defendant shall be presumed to be innocent until he/she is finally adjudged to be guilty.

[This Article Newly Inserted by Act No. 3282, Dec. 18, 1980]

Article 275-3 (Principle of Oral Pleading)

Pleadings in the courtroom shall be made oral.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 276 (Right for Attendance of Criminal Defendant)

When the criminal defendant does not appear on the day fixed for trial, the court shall not sit without special provisions: Provided, That if the criminal defendant is a juristic person, it may have a proxy appear.

Article 276-2 (Special Rules for Those who Need Special Protection including Disabled Persons) (1) When the presiding judge or a judge examines a criminal defendant, he/she may allow a person who has a reliable relationship with the criminal defendant to sit in company with the criminal defendant, ex officio or upon request of the criminal defendant, his/her legal representative, or the prosecutor, if the criminal defendant falls under any of the following:

1. If the criminal defendant lacks the ability to discern right from wrong or make and communicate a decision due to a physical disability or mental disorder;
2. If it is necessary for facilitating the criminal defendant's psychological stability and smooth communications in light of his/her age, gender, nationality, or any other factor.

(2) The scope of persons eligible for sitting in company with a criminal defendant with a reliable relationship under paragraph (1) and the procedure for and method of sitting in company shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 277 (Minor Cases, etc. and Non-appearance of Criminal Defendant)

A criminal defendant shall not be required to make an appearance, if a case falls under any of the following. In such cases, a person designated by the criminal defendant may appear before the court on behalf of the criminal defendant:

1. If the case is punishable with a fine or minor fine of a maximum amount not exceeding five million

won;

2. If it is obvious that indictment for the case will be rejected or absolved by a ruling;
3. If the case is punishable with imprisonment, with or without labor, for not more than three years, a fine of a maximum amount exceeding five million won, or misdemeanor imprisonment, and the court has granted, upon receiving a petition for permission of non-appearance of the criminal defendant, the permission for non-appearance of the defendant because it found that non-appearance of the defendant would not cause any problem to protection of his/her rights: Provided, That the defendant shall make an appearance on a trial day for the proceedings under Article 284 or sentencing;
4. If the case is brought to the trial for sentencing upon a motion filed only by the criminal defendant for formal trial under Article 453 (1).

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 277-2 (Refusal of Appearance of Criminal Defendant and Trial Proceedings) (1) Under the circumstances that there is no trial opening without the appearance of the criminal defendant, if the detained criminal defendant refuses to appear without good cause and it is deemed impossible or significantly impracticable for any correctional officer to bring him/her to the court, the trial may proceed without appearance of the criminal defendant. <Amended by Act No. 8496, Jun. 1, 2007>

(2) In proceedings of trial under paragraph (1), opinions of the prosecutor and defense counsel shall be heard.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 278 (Absence of Prosecutor)

If a prosecutor is notified of the date fixed for trial twice or more and fails to appear, or where only judgment is pronounced, the court may proceed without appearance of the prosecutor. <Amended by Act No. 5054, Dec. 29, 1995>

Article 279 (Procedure Lead of Presiding Judge)

Procedure lead on a date fixed for trial shall be conducted by the presiding judge.

Article 279-2 (Participation of Professional Examiners) (1) If necessary to clarify an issue at bar or facilitate a litigation procedure, a court may designate a professional examiner by its ruling, ex officio or upon a motion of the prosecutor, the criminal defendant, or his/her defense counsel to have him/her participate in the proceedings including preparatory hearings and trials.

(2) A professional examiner may submit a written statement that contains an explanation or an opinion based on his/her expertise or may make an oral statement on such an explanation or opinion based on his/her expertise on a trial date: Provided, That the examiner shall not participate in a conference on judgment.

(3) With the permission from the presiding judge, a professional examiner may ask a criminal defendant or his/her defense counsel, or any person involved in the litigation, including a witness and an expert witness, questions directly concerning matters necessary for clarifying an issue at bar.

(4) As regards a written statement submitted by a professional examiner or an oral statement made by such examiner on an explanation or opinion, the court, pursuant to (2), shall give the prosecutor, the criminal defendant, or his/her defense counsel an opportunity to make a statement, orally or in writing, on his/her opinion.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-3 (Revocation of Decision on Professional Examiner's Participation) (1) A court may, if deemed proper, revoke a decision under Article 279-2 (1), upon a motion of the prosecutor, the criminal defendant, or his/her defense counsel or ex officio.

(2) A court shall revoke the decision, upon a motion of the defendant or his/her defense counsel, and the prosecutor in concert to revoke a decision under Article 279-2 (1).

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-4 (Designation of Professional Examiners) (1) When a court intends to have a professional examiner participate in a litigation pursuant to Article 279-2 (1), it shall hear the opinions of the prosecutor, the criminal defendant, or his/her defense counsel to designate one or more professional examiners for each case.

(2) A professional examiner shall be entitled to compensation as prescribed by the Supreme Court Regulations, and other expenses, including travel expense, daily allowance, and accommodations, if necessary, may be paid to him.

(3) Other necessary matters concerning designation of a professional examiner shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-5 (Exclusion of and Challenge against Professional Examiner) (1) Articles 17 through 20 and 23 shall apply mutatis mutandis to professional examiners.

(2) If there is a motion to exclude or challenge a professional examiner, the relevant professional examiner may not participate in the litigation of the case at bar until a decision on such motion becomes final and conclusive. In such cases, the relevant professional examiner may make a statement on the motion for exclusion or challenge.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-6 (Power of Assigned Judge)

Where an assigned or requisitioned judge presides a litigation, the duties of the court or the presiding judge under Article 279-2 (2) through (4) shall be conducted by the assigned or requisitioned judge.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-7 (Offense of Divulgence of Secrets)

A professional examiner or a person who served as a professional examiner shall be punished by imprisonment, with or without labor, for not more than two years or by a fine not exceeding ten million won, if he/she divulges other person's secret known to him/her in the course of performance of his/her duties as a professional examiner.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 279-8 (Legal Fiction of Public Official for Application of Penalty Provisions)

A professional examiner shall be regarded as a public official in applying penalty provisions of Articles 129 through 132 of the Criminal Act.

[This Article Newly Inserted by Act No. 8730, Dec. 21, 2007]

Article 280 (Prohibition of Body Restriction in Court)

The criminal defendant in trial court shall be subject to no physical restraint: Provided, That if the criminal defendant employs violence or it is deemed that he/she may flee, the presiding judge may order restriction of the body of the criminal defendant or take other necessary measures. <Amended by Act No. 5054, Dec. 29, 1995>

Article 281 (Duty of Criminal Defendant to Remain in Court and Court Police) (1) The criminal defendant shall not leave the court without permission of the presiding judge.

(2) The presiding judge may take necessary measures to prevent the criminal defendant from leaving court and to maintain order in court.

Article 282 (Required Defense)

With regard to any case referred to in Article 33 (1) or to any case for which a defense counsel is appointed under the provisions of paragraphs (2) and (3) of the same Article, the court may not sit without the defense counsel: Provided, That this shall not apply where only a judgment is pronounced. <Amended by Act No. 7965, Jul. 19, 2006>

Article 283 (Court-Appointed Defense Counsel)

In the case of the main body of Article 282, when the defense counsel fails to attend, the court shall appoint a defense counsel ex officio. <Amended by Act No. 7965, Jul. 19, 2006>

Article 283-2 (Criminal Defendant's Right to Remain Silent) (1) A criminal defendant has a right to remain silent or refuse to make a statement for an individual question.

(2) The presiding judge shall inform the criminal defendant that he/she has a right to refuse to make a statement under paragraph (1).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 284 (Identification Question)

The presiding judge shall confirm the identity of the criminal defendant by asking his/her name, age, reference domicile, domicile, and occupation. <Amended by Act No. 8435, May 17, 2007>

Article 285 (Opening Statement of Prosecutor)

The prosecutor shall recite the facts charged, the name of crimes, and the applicable provisons of Acts as described in the bill of prosecution: Provided, That the presiding judge may, if deemed necessary, have the prosecutor state outlines of the prosecution.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 286 (Opening Statement of Criminal Defendant) (1) The criminal defendant shall make a statement on whether he/she admits the facts charged after the prosecutor finishes his/her opening statement: Provided, That the foregoing shall not apply where the criminal defendant exercises his/her right to remain silent.

(2) The criminal defendant and his/her defense counsel may plead facts favorable to the defendant.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 286-2 (Ruling on Summary Trial Procedures)

When the criminal defendant makes a confession on the facts charged at a trial court, the court may make a ruling that the court will try only the facts charged according to the summary trial procedures. <Amended by Act No. 5054, Dec. 29, 1995>

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 286-3 (Cancellation of Ruling)

When it is deemed that confessions made by the criminal defendant concerning the cases on which the ruling under the preceding Article is made, are not reliable, or it is not proper markedly for the court to try such cases according to the summary trial procedures, the ruling shall be cancelled after seeking opinions of the relevant prosecutor.

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 287 (Presiding Judge's Organization of Issues and Statements of Prosecutor and Defense Counsel concerning Evidence) (1) After the criminal defendant finishes his/her opening statement, the presiding judge may ask the criminal defendant or his/her defense counsel questions necessary for organizing issues in order.

(2) Before beginning examination of evidence, the presiding judge may allow the prosecutor and defense counsel to make statements concerning the arguments relating to the facts charged, plans for proving, and other matters: Provided, That a statement shall not be allowed if such statement involves any matter that is likely to bring about prejudice or bias of the court in the case and is based on any material that is inadmissible as evidence or that the party has no intention to produce as evidence.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 288 Deleted. <by Act No. 705, Sep. 1, 1961>

Article 289 Deleted. <by Act No. 8496, Jun. 1, 2007>

Article 290 (Examination of Evidence)

Examination of evidence shall be conducted after the proceedings under Article 287 are completed.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 291 (Idem) (1) Documents or articles produced by a person involved in the litigation as evidence or documents prepared or transmitted pursuant to Articles 272 and 273 shall be shown, explained, and examined separately in open court by the prosecutor, the criminal defense counsel, or the defendant.

(2) The presiding judge may examine ex officio the documents or articles referred to in the preceding paragraph in open court.

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 291-2 (Order of Examination of Evidence) (1) The court shall examine the evidence that the criminal defendant or his/her defense counsel moved to admit after the evidence that the prosecutor moved to admit is examined.

(2) The court shall examine the evidence that it determined ex officio to examine after the examination under paragraph (1) is completed.

(3) The court may, ex officio or upon a motion of the prosecutor, the criminal defendant, or his/her defense counsel, change the order under paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 292 (Examination Method of Documentary Evidence) (1) When a evidentiary document is examined upon a motion of the prosecutor, the criminal defendant, or his/her defense counsel, the movant shall recite the evidence.

(2) When the court examines a documentary evidence ex officio, the possessor or the presiding judge shall recite the evidence.

(3) Notwithstanding paragraphs (1) and (2), the presiding judge may, if deemed necessary, conduct the examination by manners of informing.

(4) The presiding judge may order court officials to give the recitation or announcement under paragraphs (1) through (3).

(5) If it is deemed that inspection is more appropriate than any other method, the presiding judge may

conduct the examination by making a evidentiary document available for inspection.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 292-2 (Examination Method of Evidential Materials) (1) When an evidential material is examined upon a motion of the prosecutor, the criminal defendant, or his/her defense counsel, the movant shall produce the material.

(2) When the court examines an evidential material ex officio, the possessor or the presiding judge shall produce the material.

(3) The presiding judge may order court officials to show a material under paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 292-3 (Examination Method of Miscellaneous Evidence)

Necessary matters concerning examination of any evidence other than documents, including drawings, photographs, audio tapes, video tapes, computer discs, and other goods made for storage of information, shall be prescribed by the Supreme Court Regulations.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 293 (Result of Examination of Evidence and Opinion of Criminal Defendant)

The presiding judge shall ask the criminal defendant for his/her opinion about the examination of evidence and shall inform him/her that he/she is able to apply for necessary examination of evidence for the protection of his/her rights.

Article 294 (Parties' Motion for Evidence) (1) The prosecutor, the criminal defendant, or his/her defense counsel may produce a document or an article as evidence and may also move the court to examine a witness, an expert witness, an interpreter, or a translator.

(2) If the court deems that the conclusion of a trial is being delayed because the prosecutor, the criminal defendant, or his/her defense counsel intentionally makes a motion for evidence late, it may reject the motion by its ruling, ex officio or upon the opponent's motion.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 294-2 (Right of Victim to Make Statements) (1) Upon receipt of a petition from a victim of a crime or his/her legal representative (including his/her spouse, lineal relative, and sibling, if the victim is dead; hereafter referred to as "victim" in this Article), the court shall admit such victim as witness for examination: Provided, That the foregoing shall not apply to any of the following cases: <Amended by Act No. 8496, Jun. 1, 2007>

1. Deleted; <by Act No. 8496, Jun. 1, 2007>
2. Where it is recognized that the victim has already made sufficient statements relating to a case concerned in trial proceedings and therefore, there is no necessity of restatement;
3. Where there is apprehension that the procedure of trial may be delayed markedly on account of the statement of the victim.

(2) Whenever the court examines a victim pursuant to paragraph (1), it shall give the victim an opportunity to make a statement on the degree and result of damage, his/her opinion concerning punishment of the criminal defendant, and other matters relating to the relevant case. <Amended by Act No. 8496, Jun. 1, 2007>

(3) Where there are a number of applicants prescribed in paragraph (1) concerning identical facts constituting the crime, the court may limit the number of persons to make a statement. <Amended by Act No. 8496, Jun. 1, 2007>

(4) Where the applicant prescribed in paragraph (1) has not appeared before the court after receiving a subpoena without good cause, the application is deemed to be withdrawn. <Amended by Act No. 8496, Jun. 1, 2007>

[This Article Newly Inserted by Act No. 3955, Nov. 28, 1987]

Article 294-3 (Non-disclosure of Victim's Statements) (1) When the court examines a victim of a crime as a witness, it may decide by its ruling to proceed the examination behind closed doors, if it is deemed necessary for the victim's privacy and personal safety, upon a request from the victim or his/her legal representative, or the prosecutor.

(2) The decision under paragraph (1) shall be informed with the reasons therefor.

(3) The court may permit a person to be present in the court even when it makes the decision under paragraph (1), if such person's presence is deemed appropriate.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 294-4 (Victim's Inspection and Copying of Litigation Record) (1) A victim of a case pending in a court (including his/her spouse, lineal relative, and sibling, if the victim is dead or suffers from severe mental disorder), the legal representative of the victim, or the spouse, lineal relative, sibling, or attorney-at-law with power of attorney granted by the victim or his/her legal representative, may file an application for inspection or copying of the records of trial with the presiding judge.

(2) Upon receiving the application under paragraph (1), the presiding judge shall notify the prosecutor, the criminal defendant, or his/her defense counsel of the purport thereof.

(3) If it is deemed necessary for the victim's remedies or if there is any other good cause, and if it is appropriate in light of the nature of the crime involved, the status of the trial, and other circumstances, the presiding judge may permit the victim to inspect or copy the litigation record.

(4) When the presiding judge permits copying of the records of trial pursuant to paragraph (3), he/she may place restrictions on the purpose of use of the copied records of trial or attach conditions deemed appropriate.

(5) A person who inspected or copied the records of trial under paragraph (1) shall neither defame the persons involved in the case unfairly or harm the peace of their lives nor cause any trouble to the investigation or trial in using the information acquired by such inspection or copying.

(6) No objection shall be allowed to the rulings under paragraphs (3) and (4).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 295 (Ruling on Application for Evidence)

The court shall decide on the application for evidence provided in Articles 294 and 294-2 and may examine the evidence ex officio. <Amended by Act No. 3955, Nov. 28, 1987>

Article 296 (Objection on Examination of Evidence) (1) A prosecutor, the criminal defendant, or his/her defense counsel may raise objections regarding the examination of evidence.

(2) The court shall render a ruling on the objections raised under the preceding paragraph.

Article 296-2 (Examination of Criminal Defendant) (1) The prosecutor or the defense counsel may successively examine the criminal defendant with necessary questions concerning the facts charged and circumstances after the examination of evidence is completed: Provided, That the presiding judge may, if deemed necessary, permit such examination even before the examination of evidence is completed.

(2) The presiding judge may, if deemed necessary, examine the criminal defendant.

(3) Article 161-2 (1) through (3) and (5) shall apply mutatis mutandis to the examination under paragraph (1).

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 297 (Withdrawal of Criminal Defendant, etc. from Court) (1) When the presiding judge deems that a witness or an expert witness is unable to make a sufficient statement in the presence of the criminal defendant or any of the persons in the court audience, he/she may order the latter to withdraw from court and make the former state his/her opinion. The same shall apply where the presiding judge deems that the criminal defendant is unable to make his/her statement in the presence of another criminal defendant.

(2) In cases of withdrawal of the criminal defendant in accordance with the preceding paragraph, when the joint criminal defendant, witness, or expert witness has finished his/her oral statement, the gist of the statement shall be announced to the criminal defendant by court officials after making the withdrawn defendant appear in court. <Amended by Act No. 705, Sep. 1, 1961; Act No. 8496, Jun. 1, 2007>

Article 297-2 (Examination of Evidences in Summary Trial Procedures)

Articles 161-2, 290 through 293, and 297 shall not apply to the cases on which the ruling under Article 286-2 is made, but the court may conduct examination of evidences according to the methods which are deemed appropriate by the court.

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

Article 298 (Amendments to Bill of Indictment) (1) With permission of the competent court, the prosecutor may add, delete, or change the facts charged or applicable provisions of Acts stated in the bill of indictment. In this case, the court shall grant permission only when the identity of the facts charged is not disturbed.

(2) Where the court deems it reasonable in view of trial process, it shall request for the addition or change of the facts charged or applicable provisions of Acts.

(3) When there are additions, withdrawal, or changes of the facts charged or applicable provisions of Acts, the court shall promptly notify the causes thereof to the criminal defendant or his/her defense counsel.

(4) Where the court deems that the addition, withdrawal, or change of the facts charged or applicable provisions of Acts in the bill of indictment under the preceding three paragraphs may increase disadvantages of the criminal defendant, the court may, ex officio or upon request of the criminal defendant or defense counsel, grant a recess of the trial for a period necessary for the criminal defendant to prepare his/her defense, by its ruling.

[This Article Wholly Amended by Act No. 2750, Jan. 25, 1973]

Article 299 (Restriction on Unnecessary Oral Proceedings, etc.)

When a statement or inquiry of a person involved in the litigation is repetitious or irrelevant to the trial, the presiding judge may restrict such statement or inquiry to the extent that it does not harm the substantial rights of the person involved in the litigation.

Article 300 (Separate or Joint Oral Proceedings)

When deemed necessary, the court may, by its ruling, order separate or joint oral proceedings, ex officio or upon request of a prosecutor, the criminal defendant, or his/her defense counsel.

Article 301 (Renewal of Proceedings)

Where a judge is changed subsequent to the commencement of trial, the proceedings shall be renewed: Provided, That this shall not apply where only a judgment is pronounced.

Article 301-2 (Cancellation on Summary Trial Procedure and Renewal of Proceedings)

When the ruling under Article 286-2 is cancelled, the proceedings shall be renewed: Provided, That this shall not apply where a prosecutor, the criminal defendant, or his/her defense counsel has no objection.

[This Article Newly Inserted by Act No. 2750, Jan. 25, 1973]

Article 302 (Opinion of Prosecutor after Examination of Evidence)

When the interrogation of the criminal defendant and examination of evidence is finished, the prosecutor shall state his/her opinion concerning the facts and the application of Acts: Provided, That in the case of Article 278, the prosecutor shall be deemed to have stated his/her opinion based on details entered in the bill of indictment.

Article 303 (Final Statement of Criminal Defendant)

The presiding judge shall afford an opportunity to the criminal defendant and his/her defense counsel to make a final plea after hearing the opinion of the prosecutor.

Article 304 (Objection on Disposition by Presiding Judge) (1) A prosecutor, or the criminal defendant or his/her defense counsel may raise an objection to any ruling by a presiding judge.

(2) The court shall render a ruling on the objection raised under the preceding paragraph.

Article 305 (Re-Opening of Pleadings)

If deemed necessary, a court may, by its ruling, reopen pleadings which had been concluded, ex officio or upon request of the prosecutor, the criminal defendant, or his/her defense counsel.

Article 306 (Suspension of Procedures of Trial) (1) If the criminal defendant is unable to discern right from wrong or make a decision, the court shall, by its ruling, suspend the trial during the continuance of such state, after hearing the opinions of the prosecutor and his/her defense counsel.

(2) When the criminal defendant is unable to appear in court because of sickness, the court shall, by its ruling, suspend the trial until it is possible for him/her to appear, after hearing the opinions of the defendant or his/her defense counsel.

(3) In suspending the trial in accordance with the preceding two paragraphs, a court shall hear the opinion of a doctor.

(4) Where it is obvious that the defendant will be pronounced innocent, acquitted, exempted from punishment, or rejected from the public prosecution, the decision may be made without the criminal defendant appearance in the court notwithstanding the circumstances referred to in paragraphs (1) and (2).

(5) Paragraphs (1) and (2) shall not apply where a proxy may appear in the court in accordance with Article 277.

## SECTION 2 Evidence

Article 307 (No Evidence No Trial Principle) (1) Fact finding shall be based on evidence.

(2) Criminal facts shall be proved to the extent that there is no reasonable doubt.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 308 (Principle of Free Evaluation of Evidence)

The probative value of evidence shall be left to the discretion of judges.

Article 308-2 (Exclusion of Evidence Illegally Obtained)

Any evidence obtained in violation of the due process shall not be admissible.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 309 (Probative Value of Confession Caused by Duress, etc.)

Confession of a criminal defendant extracted by torture, violence, or threat or after prolonged arrest or detention, or which is suspected to have been made involuntarily by fraud or other means, shall not be admitted as evidence of guilt. <Amended by Act No. 1500, Dec. 13, 1963>

Article 310 (Evidence against Defendant)

When the confession of a criminal defendant is the only evidence against him/her, the confession shall not be taken as evidence of guilt.

Article 310-2 (Hearsay Evidence and Limitation of Probative Value of Evidence)

Except as provided in Articles 311 through 316, any document which contains a statement in place of the statement made at a preparatory hearing or during trial, or any statement the import of which is another person's statement made outside preparatory hearing or at the time other than the trial date, shall not be admitted as evidence.

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 311 (Protocols of Court or Judge)

Any protocol which contains statements made by the criminal defendant or persons other than the criminal defendant at a preparatory hearing or during trial, and results of inspection of evidence by courts or judges, may be used as evidences. The same shall apply to a protocol prepared pursuant to Articles 184 and 221-2. <Amended by Act No. 2450, Jan. 25, 1973; Act No. 5054, Dec. 29, 1995>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 312 (Protocol, etc. Prepared by Prosecutor or Senior Judicial Police Officer) (1) A protocol in which the prosecutor recorded a statement of a criminal defendant when the criminal defendant was at the stage of criminal suspect, shall be admissible as evidence, only if it was prepared in compliance with the due process and proper method, the criminal defendant admits in his/her pleading at a preparatory hearing or during trial that its contents are the same as he/she stated, and it is proved that the statement recorded in the protocol was made in a particularly reliable state.

(2) Notwithstanding paragraph (1), if the criminal defendant denies the authenticity in formation of the protocol, it shall be admissible as evidence, only when it is proved by a video-recorded product or any other objective means that the statement recorded in the protocol is the same as the criminal defendant stated and was made in a particularly reliable state.

(3) A protocol concerning interrogation of a criminal suspect, prepared by any investigative institution other than a prosecutor, shall be admissible as evidence, only if it was prepared in compliance with the due process and proper method and the criminal defendant, who was the suspect at the time, or his/her defense counsel admits its contents at a preparatory hearing or a trial.

(4) A protocol in which a prosecutor or a senior judicial police officer recorded a statement of any person other than the criminal defendant shall be admissible as evidence, only if it was prepared in compliance with the due process and appropriate method, it is proved by a statement made by the person making the original statement on a preparatory hearing or a trial, a video-recorded product or

any other objective means that the contents of the protocol are the same as what he/she stated before the prosecutor or senior judicial police officer, and the criminal defendant or his/her defense counsel had an opportunity to examine the person making the original statement in relation to its contents at a preparatory hearing or a trial: Provided, That this shall apply only when it is proved that the statement recorded in the protocol was made in a particularly reliable state.

(5) Paragraphs (1) through (4) shall apply mutatis mutandis to the statements prepared by a criminal defendant or any person other than a criminal defendant in the course of investigation.

(6) A protocol in which a prosecutor or senior judicial police officer recorded the result of verification shall be admissible as evidence, if it was prepared in compliance with the due process and proper method, and the authenticity of its formation is proved by a statement made by the person who prepared the protocol at a preparatory hearing or a trial.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 313 (Statement, etc.) (1) Except as provided for in the preceding two Articles, a written statement prepared by a criminal defendant or any other person, or a document containing the statement, if there being the handwriting, or the signature or seal of a person who prepared such statement or document or a stater (including words, photographs, images, and other data which were prepared by the defendant or any other person or contain the statement of the defendant or any other person and which are stored in a computer disk or other similar information storage medium; hereafter the same shall apply in this Article), shall be admissible as evidence, if the authenticity of its formation is proved by a statement made by the person who prepared such statement or document or the stater at a preparatory hearing or during a trial: Provided, That the document containing the statement of the criminal defendant shall be admissible as evidence regardless of the statement made by the criminal defendant at a preparatory hearing or during trial, only when the authenticity of its formation is proved by a statement made by the person who prepared the document at a preparatory hearing or during trial and the statement entered in the document was made in a particularly reliable state. <Amended by Act No. 14179, May 29, 2016>

(2) Notwithstanding the main sentence of paragraph (1), where the person who prepared the written statement denies the authenticity of its formation at a preparatory hearing or during a trial, the statement shall be admissible as evidence, if the authenticity of its formation is proved by an objective method, such as digital forensic data based on scientific analysis or expert opinion: Provided, That in cases of a statement prepared by a person other than the defendant, the person who prepared the statement shall be examinable by the defendant or defense counsel with regard to the content of the statement at a preparatory hearing or during a trial. <Amended by Act No. 14179, May 29, 2016>

(3) Paragraphs (1) and (2) shall also apply to documents containing the development and results of expert opinion. <Newly Inserted by Act No. 14179, May 29, 2016>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 314 (Exception to Admissibility of Evidence)

In the case of Article 312 or 313, if a person who is required to make a statement at a preparatory hearing or a trial is unable to make such statement because he/she is dead, ill, or resides abroad, his/her whereabout is not known, or there is any other similar cause, the relevant protocol and other documents (including words, photographs, images, and other data which were prepared by the defendant or any other person or contain the statement of the defendant or any other person and which are stored in a computer disk or other similar information storage medium) shall be admissible as evidence: Provided, That this shall apply only when it is proved that the statement or preparation was made in a particularly reliable state. <Amended by Act No. 14179, May 29, 2016>

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 315 (Documents Admitted Ipso Facto Evidence)

The following documents shall be admittable as evidence: <Amended by Act No. 8435, May 17, 2007>

1. A certificate of the family relationship record, a copy of notarial deed, or such other public documents certifying the facts which a public official of Korea or an official of a foreign government has the duty or authority to certify;
2. An account book, logbook, or other documents prepared in the regular course of business;
3. Documents prepared under circumstances which lend special credibility to the assertions of facts contained therein.

Article 316 (Statement of Hearsay) (1) If a statement made by a person other than a criminal defendant (including a person who interrogated the criminal defendant as a criminal suspect before the institution of public prosecution or who was involved in such interrogation; hereafter the same shall apply in this Article) at a preparatory hearing or a trial conveys a statement of the criminal defendant, such statement shall be admissible as evidence only if it is proved that the statement was made in a particularly reliable state. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Oral testimony given by a person other than the criminal defendant at a preparatory hearing or during a trial, the import of which is the statement of a person other than the criminal defendant, shall be admissible as evidence only when the person making the original statement is unable to testify because he/she is dead, ill, or resides abroad, his/her whereabout is not known, or there is any other similar reason, and only when there exist circumstances which lend special credibility to such testimony. <Amended by Act No. 5054, Dec. 29, 1995; Act No. 8496, Jun. 1, 2007>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 317 (Voluntary Statements) (1) Oral statements given by a criminal defendant or a person other than the criminal defendant shall not be admissible as evidence unless the statements are made voluntarily.

(2) A document which contains an oral statement referred to in the preceding paragraph shall not be admissible as evidence unless it is proved that the preparation of the document or the statement entered therein has been made voluntarily.

(3) Where a part of protocol refers to evidence by inspection is part to oral statement given by the criminal defendant or a person other than the criminal defendant, only the part thereof shall be governed by the preceding two paragraphs.

Article 318 (Agreement of Parties and Probative Value of Evidence) (1) Documents or articles on which the prosecutor and the criminal defendant agree shall be admissible as evidence when deemed to be genuine.

(2) Where trial may be held without the presence of the criminal defendant and the defendant does not appear, he/she shall be deemed to have given the consent referred to in the preceding paragraph: Provided, That the same shall not apply where a proxy or defense counsel appears for the criminal defendant.

Article 318-2 (Evidence for Challenging Admissibility of Evidence) (1) A document or statement otherwise inadmissible as evidence under Articles 312 through 316, shall be admissible, if it is produced to challenge the admissibility of a statement of a criminal defendant or a person other than the criminal defendant (including a person who interrogated the criminal defendant as a criminal suspect before the institution of public prosecution or who was involved in such interrogation; hereafter the same shall apply in this Article) at a preparatory hearing or a trial.

(2) Notwithstanding paragraph (1), a video-recorded product that contains a statement of a criminal defendant or a person other than the criminal defendant may be replayed to the criminal defendant or such person for viewing in a preparatory hearing or a trial, only when it is deemed necessary to refresh his/her recollection concerning a matter of which the criminal defendant or the person has now insufficient recollection in testifying.

[This Article Wholly Amended by Act No. 8496, Jun. 1, 2007]

Article 318-3 (Exceptions to Probative Value of Evidence in Summary Trial Procedures)

With regard to evidence of the cases on which the ruling under Article 286-2 is made, it shall be regarded that the consent under Article 318 (1) is made concerning the evidence of Articles 310-2, 312 through 314, and 316: Provided, That the same shall not apply where the prosecutor, the criminal defendant, or his/her defense counsel raises objections against the use of evidences.

[This Article Newly Inserted by Act No. 2450, Jan. 25, 1973]

## SECTION 3 Judgment of Trial

Article 318-4 (Sentencing) (1) A sentence shall be pronounced on the day on which pleadings and arguments are closed: Provided, That a sentencing date may be set separately except in any extraordinary circumstances.

(2) When a sentence is pronounced on the day on which pleadings and arguments are closed, the written judgment may be prepared after pronouncing the sentence.

(3) The sentencing date under the proviso to paragraph (1) shall be set within the limit of 14 days after closing pleadings and arguments.

[This Article Newly Inserted by Act No. 8496, Jun. 1, 2007]

Article 319 (Judgment of Incompetence)

When a case pending against a criminal defendant does not come within the jurisdiction of a court, a pronouncement to that effect shall be made by judgment. <Amended by Act No. 8730, Dec. 21, 2007>

Article 320 (Incompetency of Territorial Jurisdiction) (1) A court shall not make a pronouncement of incompetency for lack of territorial jurisdiction, except upon request of the criminal defendant.

(2) A request for lack of territorial jurisdiction shall be made prior to a hearing of the accused case.

Article 321 (Pronouncement of Punishment and Matters to be Pronounced) (1) When there is proof of guilt in regard to the case pending against a defendant, a penalty shall be pronounced by judgment except in case of remission of penalty or suspension of pronouncement of punishment.

(2) Suspension of execution of punishment, the calculation of the number of days in arrest before trial, and the period of confinement in workhouse shall be pronounced by judgment simultaneously with the pronouncement of the penalty.

Article 322 (Remission of Penalty and Judgment of Suspension of Pronouncement of Punishment)

Where a remission of penalty or suspension of pronouncement of punishment is to be rendered in a case pending against the defendant, such pronouncement shall be made by judgment.

Article 323 (Reason to be Indicated in Judgment) (1) In pronouncing the defendant guilty, the facts constituting the offense, the gist of the evidence, and the applicable statutes shall be clearly indicated in the judgment.

(2) When an oral statement has been made as to legal grounds barring the formation of the offense, or as to facts by reason of which the penalty should be increased or diminished, the decision thereon shall be also indicated in the judgment.

Article 324 (Notice of Appeal)

In cases of pronouncing punishment, the presiding judge shall announce to the criminal defendant the time for appeal and the court to which appeal can be made.

Article 325 (Judgment of Not Guilty)

A finding "not guilty" shall be pronounced by judgment if the facts against the criminal defendant do not constitute an offense or if the evidence of the criminal act is insufficient.

Article 326 (Judgment of Acquittal of Prosecution)

Acquittal of a prosecution shall be pronounced by judgment in the following cases:

1. Where a finally binding judgment has already been rendered;
2. Where amnesty has been proclaimed;
3. Where the limitations period has expired;
4. Where the punishment has been repealed or the applicable statutes has been amended or abolished subsequent to the commission of the offense.

Article 327 (Judgment Rejecting Public Prosecution)

Public prosecution shall be rejected by judgment in the following cases:

1. Where the court has no jurisdiction over the criminal defendant;
2. Where the procedure for instituting public prosecution is void by reason of its having been contrary to the provisions of Acts;
3. Where a new public prosecution is instituted for the case for which public prosecution has been already instituted;
4. Where public prosecution is instituted contrary to the provisions of Article 329;
5. Where there is withdrawal of a criminal complaint in the case which shall be prosecuted only upon criminal complaint;
6. Where the injured party declares his/her intention not to prosecute a case which cannot be prosecuted against the clearly expressed intention of such person, or where the declaration of intention in such case is withdrawn.

Article 328 (Ruling on Rejection of Public Prosecution) (1) Public prosecution shall be rejected by a ruling in the following cases:

1. Where public prosecution has been withdrawn;
2. Where a criminal defendant dies or a juristic person who is a criminal defendant ceases to exist;
3. Where it cannot be tried in accordance with Article 12 or 13;
4. Where the counts in a bill of indictment do not constitute an offense even if true.

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph.

Article 329 (Withdrawal of Public Prosecution and Reinstitution of Public Prosecution)

When a ruling rejecting public prosecution as a result of its being withdrawn becomes final and conclusive, a new public prosecution can be instituted for the same offense only if it is based upon newly discovered material evidence.

Article 330 (Judgment without Oral Statement of Criminal Defendant)

Where a criminal defendant refuses to make a statement, retires from court without permission of the presiding judge, or is ordered by the presiding judge to retire from court for the maintenance of order, a judgment may be rendered without hearing his/her statement.

Article 331 (Pronouncement of Judgment of "Not Guilty" and Effect of Warrant of Detention)

A warrant of detention shall lose its effect on the rendition of a judgment of "not guilty", acquittal of a prosecution, remission of punishment, suspension of pronouncement of punishment, suspension of execution of punishment, or rejection of a public prosecution, or on the imposition of a fine or minor fine. <Amended by Act No. 5054, Dec. 29, 1995>

<The proviso to this Article deleted by Act No. 5054 on December 29, 1995, following the decision on unconstitutionality made by the Constitutional Court on December 24, 1992>

Article 332 (Pronouncement of Confiscation and Seized Articles)

When no pronouncement of confiscation is made in regard to the seized documents or articles, such documents or articles shall be deemed to have been released from seizure.

Article 333 (Returning of Property, Obtained though Crimes against Property, under Seizure)

(1) If, in regard to property, obtained though crimes against property and under seizure, there is a clear reason for restoration of such goods to the injured party, a pronouncement of returning shall be made only by judgment.

(2) In the case of the preceding paragraph, a pronouncement directing the delivery of any article acquired as consideration for the property obtained though crimes against property to the injured party shall be made by a judgment when such property has been disposed of.

(3) When no special pronouncement is made to the contrary in regard to goods provisionally restored, a pronouncement of restoration shall be deemed to have been made.

(4) Notwithstanding the provisions of the preceding three paragraphs, any person interested may assert his/her right to such goods in accordance with the civil procedure.

Article 334 (Judgment of Provisional Payment) (1) When a court pronounces a fine, minor fine, or additional collection on a criminal defendant, the court may, upon request of a prosecutor or ex officio, order the provisional payment of such money, if it is considered there is apprehension that it will be impossible or impracticable to execute the judgment after the judgment becomes finally binding.

(2) The decision referred to in the preceding paragraph may be pronounced by a judgment simultaneously with the pronouncement of penalty.

(3) The decision referred to in the preceding paragraph may be executed immediately.

Article 335 (Procedure for Rescission of Suspension of Execution) (1) Where a pronouncement suspending execution of a punishment is to be rescinded, the prosecutor shall demand such rescission in a court which has the jurisdiction in the area where the criminal defendant is or last resided.

(2) When the demand referred to in the preceding paragraph has been made, a court shall render a ruling after hearing the opinion of the criminal defendant or his/her proxy.

(3) An immediate complaint may be filed against a ruling under the preceding paragraph.

(4) The provisions of the preceding two paragraphs shall apply mutatis mutandis to cases involving suspended punishment.

Article 336 (Procedure to be Determined in Concurrent Crime) (1) Where a penalty is to be determined in accordance with Article 36, 39 (4), or 61 of the Criminal Act, a prosecutor shall demand the court which rendered the final judgment upon the case to determine the penalty: Provided, That when a suspended pronouncement of punishment is to be revoked in accordance with Article 61 of the Criminal Act, it shall be in accordance with Article 323 and the reason for revocation of suspension of pronouncement shall be clearly stated. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The provisions of paragraph (2) of the preceding Article shall apply mutatis mutandis to the preceding paragraph.

Article 337 (Judgment of Extinction of Punishment) (1) As to the pronouncement referred to in Article 81 or 82 of the Criminal Act, the application shall be made to the court corresponding to the prosecutors' office in which the criminal records are filed. <Amended by Act No. 8496, Jun. 1, 2007>

(2) The pronouncement referred to in the preceding paragraph, shall be made by a ruling.

(3) An immediate complaint may be filed against the ruling of rejecting the request referred to in paragraph (1).

# PART III APPEALS

## CHAPTER I COMMON PROVISIONS

Article 338 (Persons Entitled to Lodge Appeal) (1) An appeal may be lodged by a prosecutor or a criminal defendant.

(2) Deleted. <by Act No. 8730, Dec. 21, 2007>

Article 339 (Persons Entitled to Lodge Complaint)

A complaint may be filed by a person other than a prosecutor or the criminal defendant against whom a ruling has been rendered.

Article 340 (Appeal Lodged by Persons Other than Parties)

The legal representative of a criminal defendant may lodge an appeal on behalf of the criminal defendant.

Article 341 (Idem) (1) The spouse, a lineal relative, a sibling, or the attorney in fact or the defense counsel of a criminal defendant in the lower court may lodge an appeal on behalf of the criminal defendant. <Amended by Act No. 7427, Mar. 31, 2005>

(2) The appeal referred to in the preceding paragraph shall not be filed against the clearly expressed intention of the criminal defendant.

Article 342 (Appeal against Part of Decision) (1) An appeal may be filed against a part of decision.

(2) An appeal which is taken against one part shall be deemed to have effect over the other part which is indispensably connected with that part.

Article 343 (Period of Appeal) (1) An appeal shall be made in writing within the prescribed period.

(2) The period for making an appeal shall begin to run from the day on which the decision was pronounced or known.

Article 344 (Special Rules for Persons in Prison or Detention House) (1) A written application for an appeal submitted by the criminal defendant who is in a prison or detention house, to the warden of the prison or detention house or his/her deputy, shall be regarded as appealed within the prescribed period. <Amended by Act No. 1500, Dec. 13, 1963>

(2) If the criminal defendant is unable to prepare a written application himself/herself in the case of the preceding paragraph, the warden of a prison or detention house shall cause a public official under his/her jurisdiction to do so. <Amended by Act No. 1500, Dec. 13, 1963>

Article 345 (Persons Entitled to Application for Appeal)

When a person entitled to make an appeal under Articles 338 through 341 has been prevented, by a cause not imputable to himself/herself or his/her representative, from lodging an appeal within the period for making an appeal, he/she may apply for recovery of his/her right to appeal.

Article 346 (Form of Application for Recovery of Right of Appeal) (1) Demand for recovery of the right of appeal shall be submitted to the lower court in writing, within a period equivalent to the period for making an appeal from the day the cause which prevented the appeal ceased to exist.

(2) The reason for demanding recovery of the right of appeal shall be accompanied by an offer of presumptive proof.

(3) A person who demands recovery of the right of appeal shall make an application for appeal simultaneously with such demand.

Article 347 (Immediate Complaints for Recovery of Right of Appeal) (1) The court which has received an application for recovery of right of appeal shall render a ruling over whether application is accepted or not.

(2) An immediate complaint may be filed against a ruling under the preceding paragraph.

Article 348 (Application for Recovery of Appeal and Suspension of Execution) (1) When application is made for recovery of the right of appeal, the court may render a ruling suspending the execution of the decision until the ruling provided in the preceding Article is rendered. <Amended by Act No. 8496, Jun. 1, 2007>

(2) Where a ruling suspending the execution referred to in the preceding paragraph is rendered, a warrant of detention shall be issued against the criminal defendant if it is necessary to detain him/her: Provided, That this shall be limited to particulars provided in Article 70.

Article 349 (Waiver and Withdrawal of Appeal)

A prosecutor, the criminal defendant, or a person referred to in Article 339 may waive or withdraw an appeal: Provided, That the criminal defendant or a person referred to in Article 341 cannot waive an appeal where he/she is pronounced with death penalty or imprisonment, with or without labor, for an indefinite term.

Article 350 (Waiver of Appeal and Consent of Legal Representative)

A criminal defendant who has a legal representative shall obtain the consent of his/her legal representative before waiving or withdrawing an appeal: Provided, That this shall not apply when such consent cannot be obtained on account of death of his/her legal representative or for some other reason.

Article 351 (Withdrawal of Appeal and Consent of Criminal Defendant)

The legal representative of the criminal defendant or those referred to in Article 341 may withdraw an appeal in accordance with the consent of the criminal defendant.

Article 352 (Method of Waiver of Appeal) (1) The waiver or withdrawal of an appeal shall be made in writing, but in court it may be done orally.

(2) In cases of waiver or withdrawal of an appeal made orally, it shall be entered on the protocol.

Article 353 (Jurisdiction on Waiver, etc. of Appeal)

The waiver of an appeal shall be filed in the lower court, while the withdrawal of an appeal shall be made in the appellate court: Provided, That when the records of trial are not sent to the appellate court, the withdrawal of an appeal may be submitted to the lower court.

Article 354 (Prohibition to Re-Appeal after Waiver)

A person who has withdrawn an appeal or has consented to the waiver or withdrawal of an appeal shall not take another appeal in respect to the same case.

Article 355 (Special Rules for Criminal Defendant in Prison)

Article 344 shall apply mutatis mutandis where the criminal defendant in prison or detention house demands recovery of his/her right of appeal, or waives or withdraws the appeal. <Amended by Act No. 1500, Dec. 13, 1963>

Article 356 (Waiver, Relinquishment of Appeal and Notice to Party)

If there is a request for an appeal, waiver or withdrawal of an appeal, or a recovery of right of appeal, the court shall inform the other party without delay of the impending action.

## CHAPTER II APPEALS ON POINTS OF FACT AND LAW

Article 357 (Judgment Subject to Appeal)

Where the judgment of the court of first instance is not satisfactory, an appeal may be lodged, from the judgment of a sole judge of the relevant district court to a collegiate court of the district court and from the judgment of a collegiate division of the relevant district court to the relevant high court. <Amended by Act No. 1500, Dec. 13, 1963>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 358 (Time-Limit for Appeal)

The period allowed for appeal shall be seven days. <Amended by Act No. 1500, Dec. 13, 1963>

Article 359 (Method of Appeal)

An appeal shall be lodged by a petition brought before the lower court. <Amended by Act No. 1500, Dec. 13, 1963>

Article 360 (Ruling on Dismissal of Appeal by Lower Court) (1) When it is obvious that an appeal has been lodged contrary to the legal form or after the termination of the right of appeal, the lower court shall dismiss it by its ruling. <Amended by Act No. 1500, Dec. 13, 1963>

(2) An immediate complaint may be filed against a ruling under the preceding paragraph.

Article 361 (Delivery of Records of Trial and Articles of Evidence)

Except as provided in Article 360, the lower court shall send the records of trial and articles of evidence to the appellate court within 14 days after receipt of a petition of appeal.

[This Article Wholly Amended by Act No. 5054, Dec. 29, 1995]

Article 361-2 (Acceptance of Records of Trial and Notification thereof) (1) Where the appellate court has accepted the delivery of the records of trial, both the appellant and the other party shall be immediately notified of the reason. <Amended by Act No. 1500, Dec. 13, 1963>

(2) If a defense counsel has been selected before notification referred to in the preceding paragraph is made, such notification shall also be given to the defense counsel.

(3) Where the criminal defendant is in prison or detention house, the prosecutor in the prosecutors' office corresponding to the lower court shall transfer the criminal defendant, within 14 days from receipt of notification referred to in paragraph (1), to a prison or detention house located in the jurisdiction of the appellate court. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 361-3 (Statement of Reasons for Appeal and Answer) (1) The appellant or his/her defense counsel shall submit a statement of reasons for the appeal to the appellate court within 20 days from the date of acceptance of the notification referred to in the preceding Article. In this case, Article 344 shall apply mutatis mutandis. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 8730, Dec. 21, 2007>

(2) The appellate court upon acceptance to the statement of reasons for appeal shall without delay send a duplicate or copy thereof to the other party. <Amended by Act No. 1500, Dec. 13, 1963>

(3) The other party shall submit an answer to the appellate court within ten days from the date of delivery of the reasons for appeal referred to in the preceding paragraph. <Amended by Act No. 1500, Dec. 13, 1963>

(4) The appellate court upon acceptance of the answer shall without delay send a duplicate or copy thereof to the appellant or his/her defense counsel. <Amended by Act No. 1500, Dec. 13, 1963>

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 361-4 (Ruling on Dismissal of Appeal) (1) If either the appellant or his/her defense counsel has failed to submit a statement of reasons for appeal within the period as set forth in paragraph (1) of the preceding Article, the appellate court shall dismiss the appeal by its ruling: Provided, That this provision shall not apply where there exists a fact to be examined ex officio, or when a reason for appeal is stated on the petition of appeal.

(2) An immediate complaint may be filed against a ruling under the preceding paragraph. <Newly Inserted by Act No. 1500, Dec. 13, 1963>

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 361-5 (Reasons for Appeal)

The following shall be reasons for an appeal against a judgment of the lower court: <Amended by Act No. 1500, Dec. 13, 1963>

1. When there is a violation of the Constitution of the Republic of Korea, Acts, Ordinances, or regulations which have affected the decision of the court;
2. When the penalty has been abolished or changed or general amnesty has been proclaimed after the judgment;
3. When the basis for assuming or denying jurisdiction is against the Acts;
4. When the court which rendered an adjudication was not constituted as prescribed by Acts;
5. and 6. Deleted; <by Act No. 1500, Dec. 13, 1963>
7. When a judge who is not supposed to participate in the trial of a case has participated in the trial;
8. When a judge who did not participate in the trial of the case, has participated in rendering the judgment;
9. When there has been a violation of the provisions concerning opening of trial to the public;
10. Deleted; <by Act No. 1500, Dec. 13, 1963>
11. When the reason are not included in the judgment or when the reason stated is not compatible with judgment;

12. Deleted; <by Act No. 1500, Dec. 13, 1963>
13. When a reason exists for applying for renewal of procedure;
14. When the judgment is affected by mistake of fact;
15. When a reason exists to find the amount of punishment sentenced unreasonable.

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 362 (Ruling on Dismissal of Appeal) (1) If the lower court does not determine the dismissal of an appeal falling within the provisions of Article 360, the appellate court shall dismiss the appeal by its ruling. <Amended by Act No. 1500, Dec. 13, 1963>

(2) An immediate complaint may be filed against a ruling under the preceding paragraph.

Article 363 (Ruling on Rejection of Public Prosecution) (1) In the case of any subparagraph of Article 328 (1), the appellate court shall reject the public prosecution by its ruling. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 5054, Dec. 29, 1995>

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph.

Article 364 (Judgment by Appellate Court) (1) The appellate court shall render a decision ex officio on the grounds included in the reason for appeal. <Amended by Act No. 1500, Dec. 13, 1963>

(2) The appellate court may render a decision ex officio on the grounds which affected a judgment, even if the ground is not included in the reason for appeal. <Amended by Act No. 1500, Dec. 13, 1963>

(3) An evidence which could be an evidence at the court of first instance may be evidence at the court of appeal. <Newly Inserted by Act No. 1500, Dec. 13, 1963>

(4) An appeal shall be dismissed by means of a judgment when the court decides that no ground for appeal exists. <Newly Inserted by Act No. 1500, Dec. 13, 1963>

(5) When it is evident that no ground exists for appeal, the court may dismiss an appeal by a judgment, without oral proceedings, by examining the petition of appeal, the statement of reason for appeal or any other records of trial. <Newly Inserted by Act No. 1500, Dec. 13, 1963>

(6) The judgment of the lower court shall be quashed and a new judgment announced when the court decides that any of the grounds for appeal are valid. <Newly Inserted by Act No. 1500, Dec. 13, 1963>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 364-2 (Quashing Judgment for Joint Criminal Defendant)

Where the judgment of the lower court is quashed for one criminal defendant and the same reason for quashing exists also with respect to the joint criminal defendant who appealed, the judgment of the lower court against the joint criminal defendant shall also be quashed. <Amended by Act No. 1500, Dec. 13, 1963>

[This Article Newly Inserted by Act No. 705, Sep. 1, 1961]

Article 365 (Presence of Criminal Defendant) (1) If a criminal defendant does not appear on the date set for trial, another date shall be set. <Amended by Act No. 705, Sep. 1, 1961>

(2) A judgment may be pronounced without oral statement of the criminal defendant when the criminal defendant does not appear in the court on the subsequent date without good cause.

Article 366 (Return of Case to Lower Court)

When the judgment of the lower court is to be quashed on the ground that the judgment on rejection of public prosecution or jurisdictional incompetency is contrary to the Acts, the case shall be sent back to the lower court by means of a judgment.

### Article 367 (Transfer of Case to Competent Court)

When the judgment of the lower court is to be quashed on the ground that the basis for jurisdiction is contrary to the Acts, the case shall, by means of a judgment, be transferred to a competent court of first instance: Provided, That if the appellate court has itself jurisdiction of the first instance over the case, it shall try the case as court of first instance. <Amended by Act No. 1500, Dec. 13, 1963>

### Article 368 (Prohibition of Judgment Disadvantageous to Defendant)

Where appeal has been lodged by, or for the benefit of the criminal defendant, no penalty more severe than that imposed by the judgment of the lower court shall be pronounced. <Amended by Act No. 1500, Dec. 13, 1963>

### Article 369 (Form of Entry of Written Decisions)

The decision on the reasons for appeal shall be stated in the document of the decision rendered by the appellate court, and the facts and evidences stated on the judgment of the lower court may be quoted therein. <Amended by Act No. 1500, Dec. 13, 1963>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

### Article 370 (Provisions Applicable Mutatis Mutandis)

The provisions relating to trial in Part II shall apply mutatis mutandis to trial on appeal, except as otherwise provided in this Chapter. <Amended by Act No. 1500, Dec. 13, 1963>

## CHAPTER III FINAL APPEALS

### Article 371 (Judgment Subject to Final Appeals)

A final appeal may be lodged, where the finding of the court of second instance is not satisfactory, to the Supreme Court. <Amended by Act No. 1500, Dec. 13, 1963>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

### Article 372 (Direct Appeal to Supreme Court from District Court)

In the following cases, a final appeal may be lodged directly to the Supreme Court without filing an appeal to the high court against judgment in the first instance: <Amended by Act No. 705, Sep. 1, 1961; Act No. 1500, Dec. 13, 1963>

1. When the court fails to apply statutes to facts which are recognized in the judgment of the lower court, or where there is an error in the application of statutes;
2. When the penalty has been abolished or changed or general amnesty has been proclaimed subsequent to the rendition of the judgment of the lower court.

### Article 373 (Appeal to High Court and Direct Appeal to Supreme Court from District Court)

A final appeal against the judgment in the first instance shall lose its effect if an appeal to the high court is filed: Provided, That this shall not apply when an appeal has been withdrawn or dismissed by a ruling. <Amended by Act No. 1500, Dec. 13, 1963>

### Article 374 (Period Allowed for Final Appeal)

The period allowed for a final appeal shall be seven days.

### Article 375 (Methods of Filing of Final Appeal)

A final appeal shall be lodged by presenting a petition of final appeal to the lower court.

**Article 376 (Ruling on Dismissal of Final Appeal by Lower Court)** (1) Where it is obvious that the final appeal is made contrary to the legal form or has been filed after the termination of the right to final appeal, the lower court shall dismiss it by its ruling.

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph.

Article 377 (Delivery of Records of Trial and Articles of Evidence)

Except as provided in Article 376, the lower court shall send the records of trial and articles of evidence to the court of final appeal within 14 days after receipt of a petition of final appeal.

[This Article Wholly Amended by Act No. 5054, Dec. 29, 1995]

Article 378 (Receiving Records of Trial and Notification) (1) When the court of final appeal receives the records of trial, it shall immediately inform the appellant and appellee of the reason. <Amended by Act No. 705, Sep. 1, 1961>

(2) When a defense counsel is appointed before the notification referred to in the preceding paragraph, the court shall inform the defense counsel.

Article 379 (Statement of Reasons for Final Appeal and Written Answer) (1) An appellant or defense counsel shall submit a statement of the reason for final appeal to the court of final appeal within 20 days from the day when he/she received the notification provided in the preceding Article. In such cases, Article 344 shall apply mutatis mutandis. <Amended by Act No. 705, Sep. 1, 1961; Act No. 8730, Dec. 21, 2007>

(2) The reason shall be expressed distinctly in the statement of the reason for final appeal quoting the facts on the basis of the records of trial and evidence already made and examined by the lower court.

(3) Upon receipt of the statement of the reason for final appeal, the court of final appeal shall serve a copy or transcript of the statement to the other party without delay. <Amended by Act No. 705, Sep. 1, 1961>

(4) The appellee may submit a written answer to the court of final appeal within ten days from the date on which he/she has been served in accordance with the preceding paragraph. <Amended by Act No. 705, Sep. 1, 1961>

(5) The court of final appeal which has accepted a written answer shall serve a copy or transcript of the statement on the appellant or defense counsel without delay. <Amended by Act No. 705, Sep. 1, 1961>

Article 380 (Ruling on Dismissal of Final Appeal) (1) When appellant or defense counsel does not submit a statement of the reason for final appeal within the period referred to in paragraph (1) of the preceding Article, the court shall dismiss the appeal by its ruling: Provided, That this shall not apply when there are reasons entered in the petition of final appeal. <Amended by Act No. 705, Sep. 1, 1961>

(2) Where an argument on the reason for final appeal entered in the petition of final appeal or in the statement of the reason for final appeal does not obviously constitute any of the reasons referred to in subparagraphs of Article 383, the final appeal shall be dismissed by a ruling. <Newly Inserted by Act No. 12576, May 14, 2014>

Article 381 (Idem)

In any case falling under Article 376, the court of final appeal shall dismiss a final appeal by its ruling when the lower court fails to render a ruling dismissing the final appeal. <Amended by Act No. 705, Sep. 1, 1961>

Article 382 (Ruling on Rejection of Public Prosecution)

The court of final appeal shall reject a public prosecution by its ruling, when circumstances referred to in subparagraphs of Article 328 (1) exist.

[This Article Wholly Amended by Act No. 5054, Dec. 29, 1995]

Article 383 (Reasons for Final Appeal)

A final appeal may be lodged against a judgment of the lower court, for the following grounds: <Amended by Act No. 705, Sep. 1, 1961; Act No. 1500, Dec. 13, 1963>

1. Where there has been a violation of the Constitution of the Republic of Korea, Acts, Ordinances, or regulations which have affected a decision of the court;
2. Where punishment is abolished or changed or general amnesty has been proclaimed after a decision of the court has been rendered;
3. Where there is a reason to request for a review;
4. Regarding those cases for which death penalty or imprisonment, with or without labor, for an indefinite term or for not less than ten years has been declared, when the judgment attached was affected by grave mistake of the fact or when the amount of the punishment is extremely inappropriate.

Article 384 (Scope of Adjudication)

The court of final appeal shall adjudicate on the grounds entered in the statement of the reason for final appeal: Provided, That in the cases of subparagraphs 1 through 3 of the preceding Article, the court may render a decision ex officio thereon, even if such grounds are not entered in the statement of the reason for final appeal. <Amended by Act No. 705, Sep. 1, 1961; Act No. 1500, Dec. 13, 1963>

Article 385 Deleted. <by Act No. 705, Sep. 1, 1961>

Article 386 (Qualification of Defense Counsel)

For a trial on a final appeal, no person other than an attorney at law shall be appointed as defense counsel.

Article 387 (Ability of Argument)

In a trial on a final appeal, only the defense counsel shall argue on behalf of the criminal defendant.

Article 388 (Form of Argument)

The prosecutor and the defense counsel shall argue on the basis of the statement of reasons for final appeal.

Article 389 (Absence, etc. of Defense Counsel) (1) If a defense counsel does not appear, or no defense counsel has been appointed, a judgment may be given after having the oral statement of a prosecutor: Provided, That the same shall not apply to the case of Article 283.

(2) In the case of the preceding paragraph, when a legitimate statement of reason is presented, it shall be considered as an oral statement.

Article 389-2 (Summon of Criminal Defendant)

It is not necessary for the criminal defendant to be summoned on the date for a trial of a final appeal.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

Article 390 (Judgment by Paper Hearings) (1) The court of final appeal may render an adjudication, without oral pleadings, after examining the petition of a final appeal, the statement of reasons for final appeal, or any other records of trial.

(2) The court of final appeal may, if necessary, hold a hearing for a specific issue to hear a testimony of a third party involved in the case at bar. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

[This Article Wholly Amended by Act No. 705, Sep. 1, 1961]

Article 391 (Quashing of Judgment of Lower Courts)

When a reason exists for final appeal, the judgment of the lower court shall be quashed by judgment.

Article 392 (Quashing for Joint Criminal Defendant)

Where the judgment of the lower court is quashed for the benefit of a criminal defendant, such judgment shall also affect a joint criminal defendant by whom a final appeal was lodged if the ground for quashing is common to the joint criminal defendant.

Article 393 (Dismissal of Public Prosecution and Judgment of Returning)

Where the judgment of the lower court or judgment of the court of first instance is to be quashed on the ground that a public prosecution properly filed was dismissed, it shall be sent back to the lower court or the court of first instance by means of a judgment.

Article 394 (Recognition of Jurisdiction and Judgment of Transfer)

Where the judgment of the lower court or the judgment of the court of first instance is to be quashed on the ground that the basis for jurisdiction is contrary to Acts, it shall be transferred to the court of proper jurisdiction by means of a judgment.

Article 395 (Jurisdiction Erroneously Refused)

Where the judgment of the lower court or the judgment of the court of first instance is to be quashed on the ground that the basis for refusing jurisdiction is against the Acts, it shall be sent back to the lower court or the court of first instance by means of a judgment.

Article 396 (Judgment of Quashing) (1) Where the judgment of the lower court is to be quashed, then the court of final appeal may render a judgment on the basis of the records of trial and evidence already made and examined by the lower court or the court of first instance and may render a direct judgment on the case. <Amended by Act No. 705, Sep. 1, 1961>

(2) Article 368 shall apply mutatis mutandis to the judgment provided for in the preceding paragraph.

Article 397 (Return or Transfer to Lower Court)

When the judgment of the lower court is quashed on grounds other than the preceding four Articles, the case either shall be sent back to the lower court or transferred to another court of similar jurisdiction, by means of a judgment.

Article 398 (Form of Entry of Written Decisions)

The reason for decision concerning a final appeal shall be written in the document of decision. <Amended by Act No. 705, Sep. 1, 1961>

Article 399 (Applicable Provisions)

The provisions of the preceding Chapter shall apply mutatis mutandis to the trial of a final appeal, except as otherwise provided in this Chapter.

Article 400 (Request for Amendment of Judgment) (1) Where the court of final appeal notes any error in the content of its judgment, it may ex officio amend it by a judgment upon request of the prosecutor, the appellant, or the defense counsel. <Amended by Act No. 705, Sep. 1, 1961>

(2) The request referred to in the preceding paragraph shall be made within ten days from the day when the judgment has been pronounced.

(3) The request referred to in paragraph (1) shall be made in writing together with the reason therefor.

Article 401 (Judgment for Amendment) (1) A judgment for amendment may be rendered without opening oral proceedings.

(2) The court of an appeal shall reject a request, by its ruling, without delay when the request for amendment is not favorably considered.

## CHAPTER IV COMPLAINTS

Article 402 (Judgment Subject to Complaints)

A complaint may be filed against a ruling of a court, if there is any objection: Provided, That this shall not apply where it is specifically provided in this Act.

Article 403 (Complaints against Rulings Prior to Judgment) (1) Against a ruling rendered, prior to the judgment, concerning the jurisdiction of a court or the proceedings, no complaint shall be filed except specifically where it is possible to file an immediate complaint.

(2) The provisions of the preceding paragraph shall not apply to a ruling relating to detention, release on bail, seizure or restoration of articles seized, or a ruling relating to confinement of the criminal defendant in connection with examination by expert witnesses.

Article 404 (Time to File Ordinary Complaint)

With the exception of an immediate complaint, a complaint may be filed at any time: Provided, That this shall not apply when it is no longer of advantage to have the ruling of the lower court cancelled. <Amended by Act No. 1500, Dec. 13, 1963>

Article 405 (Period Allowed for Immediate Complaint)

The period allowed for an immediate complaint shall be three days.

Article 406 (Procedure for Complaints)

A complaint shall be filed by presenting a written application to the lower court.

Article 407 (Ruling on Dismissal of Complaint by Lower Court) (1) Where it is obvious that the application for complaint is contrary to the form prescribed by Acts or it is filed after the termination of the right of complaint, the lower court shall dismiss it by its ruling.

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph.

Article 408 (Ruling on Renewal by Lower Court) (1) Where the lower court finds a complaint to be well-founded, it shall correct the error in its ruling.

(2) Where the whole or a part of a complaint is groundless, the court shall send the written complaint with its written opinions attached thereto to the appellate court within three days from the day when it received the complaint.

Article 409 (Suspension of Execution and Ordinary Complaint)

With the exception of an immediate complaint, a complaint shall not have the effect of suspending the execution of the decision: Provided, That the lower court or the appellate court may, by its ruling, suspend the execution until the complaint shall have been adjudicated.

Article 410 (Immediate Complaint and Effect of Suspension of Execution)

During the period allowed for immediate complaint or after it is filed, the execution of the decision shall be suspended.

Article 411 (Delivery of Records of Trial) (1) The lower court shall, if deemed necessary, send the records of trial and articles of evidence to the appellate court.

(2) The appellate court may demand the records of trial and articles of evidence.

(3) In the cases of the preceding two paragraphs, the appellate court shall inform the parties within five days from the day the records of trial and articles of evidence are received.

Article 412 (Statement by Prosecutor)

The prosecutor may state his/her opinion regarding the case of complaint.

Article 413 (Ruling on Dismissal of Complaint)

Where the lower court does not dismiss a complaint which falls under Article 407, the appellate court shall dismiss the complaint by its ruling.

Article 414 (Dismissal of Complaint and Recognition of Reasons for Complaint) (1) Where a complaint is found to be groundless, it shall be dismissed by a ruling.

(2) If a complaint is well-founded, the ruling of the lower court shall be cancelled by a ruling and, if necessary, a decision against the case of complaint shall be rendered anew.

Article 415 (Further Complaint)

Against a ruling rendered by the appellate court or the high court, an immediate complaint may be lodged to the Supreme Court only on the ground that there has been a violation of the Constitution of the Republic of Korea, Acts, Ordinances, or regulations which have affected the decision of the court.

[This Article Wholly Amended by Act No. 1500, Dec. 13, 1963]

Article 416 (Quasi-Complaint) (1) A person who has an objection against a ruling rendered by the presiding judge or a commissioned judge which falls under any of the following may demand cancellation of or alteration to it to the court to which the judge belongs:

1. A ruling dismissing a motion for challenge;
2. A ruling relating to confinement, release on bail, or seizure or restoration of articles seized;
3. A ruling ordering confinement of the criminal defendant for the purpose of examination by expert witnesses;
4. A ruling ordering an administrative fine or compensation for expenses to a witness, expert witness, interpreter, or translator.

(2) A ruling requested in relation to the above paragraphs shall be rendered by the collegiate court.

(3) The demand referred to in paragraph (1) shall be made within three days from the date on which the notification of ruling is made.

(4) The execution of a ruling provided in paragraph (1) 4 shall be suspended during the period specified in the preceding paragraph and during which a demand is made.

Article 417 (Idem)

A person who is dissatisfied with a disposition made by a prosecutor or a senior judicial police officer concerning confinement, seizure, or return of a seized article, and a disposition concerning participation of the defense counsel under Article 243-2, may file a petition for cancellation of or alteration to such disposition with the court having jurisdiction over the place of execution of such disposition or the court corresponding to the prosecutors' office to which the prosecutor belongs. <Amended by Act No. 8496, Jun. 1, 2007; Act No. 8730, Dec. 21, 2007>

Article 418 (Form of Quasi-Complaint)

The demand provided in the preceding two Articles shall be made by presenting a written application to the competent court.

### Article 419 (Applicable Provisions)

Articles 409, 413, 414, and 415 shall apply mutatis mutandis to cases arising under Article 416 or 417. <Amended by Act No. 5054, Dec. 29, 1995>

# PART IV SPECIAL PROCEEDINGS

## CHAPTER I REOPENING OF PROCEDURES

### Article 420 (Reopening of Procedures)

A request for reopening of procedure may be made for the benefit of a person against whom a judgment of "guilty" has become final and conclusive, in the following cases:

1. When documentary evidence or articles of evidence, on which the original judgment was based, have been proved by another finally binding judgment to have been forged or altered;
2. When testimony, expert opinion, interpretation, or translation on which the original judgment was based, has been proved by another finally binding judgment to be false;
3. When the offense of false accusation committed against a person pronounced guilty has been proved by another final judgment;
4. When the decision on which the original judgment was based has been altered by another final decision;
5. When clear evidence has been newly discovered that in regard to a person pronounced guilty, a judgment of "not guilty" or acquittal of a prosecution should be pronounced, or in the case of a person condemned, a judgment of remission of punishment should be pronounced, or a lighter offense than that found by the original judgment should be given;
6. When, in a case in which a judgment of "guilty" has been rendered for the offense of infringing a copyright, a patent right, a utility model right, a design right, or a trademark right, a final decision of the Korea Industrial Property Office holding such right to be void has been made or a judgment of a court has been rendered to the same effect;
7. When it is proved by a final judgment that an offense had been committed in connection with official functions by a judge who participated in the original judgment or the judgment of the preceding trial, or in the inquiry which formed the basis of such judgment, or by a prosecutor or senior judicial police officer who participated in the institution of a public prosecution or in the investigation which formed the basis of the public prosecution: Provided, That where public prosecution was instituted against such judge, prosecutor, or senior judicial police officer prior to the rendition of the original judgment, this shall apply only when the court which rendered the original judgement was unaware of such facts.

Article 421 (Idem) (1) For the benefit of a person against whom a final judgment dismissing an appeal or final appeal was pronounced, a request for reopening of procedure may be made only when there exists a cause specified in subparagraph 1, 2, or 7 of the preceding Article. <Amended by Act No. 1500, Dec. 13, 1963>

(2) After a judgment to reopen procedure has been rendered in a case in which reopening of procedure against a final judgment in the first instance was requested, reopening of procedure shall not be requested against a judgment dismissing an appeal. <Amended by Act No. 1500, Dec. 13, 1963>

(3) After a judgment for reopening of procedure has been rendered in a case in which reopening of procedure against a final judgment in the first or second instance was requested, reopening of

procedure shall not be requested against a judgment dismissing the final appeal.

Article 422 (Evidence in Finally Binding Judgment)

When it is impossible to get a final judgment as proof of an offense in accordance with the preceding two Articles, then if it appears that such a final judgment should be made, the court may grant a request for reopening of procedure on proof of such facts: Provided, That this shall not apply to a case in which final judgment is prevented by lack of evidence.

Article 423 (Jurisdiction over Reopening of Procedure)

A request for reopening of procedure shall be made in the jurisdiction of the court which has rendered the original judgment.

Article 424 (Persons Entitled to Request Reopening Procedure)

The following persons may request reopening of procedure:

1. A prosecutor;
2. A person who has been pronounced guilty;
3. The legal representative of a person who has been pronounced guilty;
4. The spouse, a lineal relative, or a sibling of a person pronounced guilty if the person dies or has a mental disorder.

Article 425 (Reopening of Procedure to be Requested only by Prosecutor)

A request for reopening of procedure for the causes specified in subparagraph 7 of Article 420, may be made only by a prosecutor if the offense was instigated by the person who has been pronounced "guilty".

Article 426 (Selection of Defense Counsel) (1) When a person other than a prosecutor requests reopening of procedure, he/she may select a defense counsel.

(2) The selection of a defense counsel under the provisions of the preceding paragraph shall remain valid until a judgment is rendered on the reopening of procedure.

Article 427 (Time to Request Reopening of Procedure)

Reopening of procedure may be requested even after execution of the penalty has been completed or where the penalty is not to be executed.

Article 428 (Reopening of Procedure and Effect of Suspension of Execution)

Request for reopening of procedure shall not have the effect of staying the execution of the penalty: Provided, That a prosecutor of the prosecutors' office corresponding to the competent court may stay the execution of the penalty until a decision is rendered in regard to the request for reopening of procedure.

Article 429 (Withdrawal of Request for Reopening of Procedure) (1) A request for reopening of procedure may be withdrawn.

(2) A person who has withdrawn a request for reopening of procedure shall not again request reopening of procedure for the same cause.

Article 430 (Special Rules for Prisoners)

Article 344 shall apply mutatis mutandis to a request for reopening of procedure and the withdrawal thereof.

Article 431 (Investigation of Facts) (1) On receipt of a request for reopening of procedure, a court may, if necessary, order a member of the collegiate court to conduct an investigation of facts relating to the request or may requisition a judge of another court, to undertake it.

(2) In the case of the preceding paragraph, a commissioned judge or requisitioned judge shall have the same power as a court or a presiding judge.

Article 432 (Ruling on Reopening of Procedure and Opening of Party)

Before the court renders a ruling on a request for reopening of procedure, it shall hear the opinion of the applicant and the other party: Provided, That where a request is made by the legal representative of a person who has been pronounced "guilty", the court shall hear the opinion of such person.

Article 433 (Ruling on Dismissal of Request)

When it is obvious that a request for reopening of procedure has been made contrary to the form prescribed by Acts or subsequent to the termination of the right to make such request, it shall be dismissed by a ruling.

Article 434 (Idem) (1) When a request for reopening of procedure is considered groundless, it shall be dismissed by a ruling.

(2) After the ruling referred to in the preceding paragraph has been rendered, reopening of procedure may not again be requested for the same cause by any person.

Article 435 (Ruling for Commencing Reopening of Procedure) (1) When a request for reopening of procedure is considered well-founded, a ruling for commencing reopening of procedure shall be rendered.

(2) When a ruling for commencing reopening of procedure has been rendered, the execution of the penalty shall be stayed by a ruling. <Amended by Act No. 5054, Dec. 29, 1995>

Article 436 (Concurrence of Request and Ruling on Dismissal of Request) (1) If a motion for reopening of procedure has been requested in respect to final judgment dismissing appeal and also to a judgment of the first instance which has become final by the above judgment, then if the court of first instance renders a judgment for reopening of procedure, the court of appeal shall, by its ruling, dismiss the request for reopening of procedure.

(2) When, in case reopening of procedure has been requested in respect to a judgment dismissing a final appeal against the judgment in the first or second instance and to a judgment of the first or second instance which has become final and conclusive by the above judgment, the court of first instance or the appellate court has rendered a judgment to the reopening procedure, the court of final appeal shall dismiss the request for reopening of procedure, by its ruling.

[This Article Wholly Amended by Act No. 1500, Dec. 13, 1963]

Article 437 (Immediate Complaints)

An immediate complaint may be filed against a ruling referred to in Articles 433, 434 (1), 435 (1), and 436 (1).

Article 438 (Judgment for Reopening of Procedure) (1) In a case in which a ruling for commencing reopening of procedure has become final and conclusive, a court shall conduct a trial de novo according to its grade, except as provided in Article 436.

(2) Articles 306 (1) and 328 (1) 2, however, shall not apply to the trial referred to in the preceding paragraph in the following cases: <Amended by Act No. 12899, Dec. 30, 2014>

1. When a request for reopening of procedure has been made on behalf of a deceased person or a mentally disordered person with no hope of recovery;
2. When a person who has been pronounced "guilty" has, prior to a judgment being rendered in the

reopening of procedure, died or become a mentally disordered person with no hope of recovery.

(3) In the case of the preceding paragraph, trial may be held without the appearance of the criminal defendant: Provided, That it shall not be held if his/her defense counsel does not appear.

(4) If, in the case of the preceding two paragraphs, the person who has requested reopening of procedure does not select a defense counsel, a presiding judge shall, ex officio, assign a defense counsel.

### Article 439 (No Imposition of Heavier Punishment)

In reopening of procedure, no penalty greater than that pronounced in the original judgment shall be imposed.

### Article 440 (Notification of Judgment "Not Guilty")

When a pronouncement of "not guilty" has been made after reopening of procedure, such judgment shall be published in the Gazette and newspaper at the seat of the court: Provided, That this shall not apply where a person falling under of the following expressed his/her intention of not wanting such publication:

1. A person who is rendered a judgement of not guilty, where reopening of procedure was requested by a person falling under subparagraphs 1 through 3 of Article 424;
2. The person who requested reopening of procedure, where reopening of procedure was requested by a person falling under subparagraph 4 of Article 424.

[This Article Wholly Amended by Act No. 14179, May 29, 2016]

## CHAPTER II EXTRAORDINARY APPEALS

### Article 441 (Reasons for Extraordinary Appeal)

When it has been discovered after a judgment has become binding that the trial or judgment of the case was in violation of statutes, the Prosecutor General may lodge an extraordinary appeal in the Supreme Court.

### Article 442 (Form of Extraordinary Appeal)

In making an extraordinary appeal, a written application stating reasons therefor shall be presented to the Supreme Court.

### Article 443 (Date for Trial)

A prosecutor shall argue on the basis of the written application on the date for trial.

### Article 444 (Scope of Investigation and Investigation of Facts)

(1) The Supreme court shall investigate only those matters which are stated in the written application for the extraordinary appeal.

(2) The Supreme Court may examine facts as to the jurisdiction of the court, the acceptance of the public prosecution, and the procedure of the case.

(3) In the case of the preceding paragraph, Article 431 shall be applicable.

### Article 445 (Judgment of Dismissal)

When an extraordinary appeal is groundless, it shall be dismissed by a judgment.

### Article 446 (Judgment of Quashing)

When an extraordinary appeal is considered well-grounded, a judgment shall be rendered according to the following categories:

1. When the original judgment is in violation of statutes, the part in violation shall be quashed: Provided, That if the original judgment was disadvantageous to the criminal defendant, it shall be

quashed and a judgment rendered anew in the case;

2. When any litigation procedure of the lower court is in violation of statutes, the procedure in violation shall be quashed.

Article 447 (Effect of Judgment)

With the exception of a judgment rendered under the proviso to subparagraph 1 of the preceding Article, the effect of a judgment in extraordinary appeal shall not extend to the criminal defendant.

## CHAPTER III SUMMARY PROCEDURES

Article 448 (Issuance of Summary Order) (1) In a matter coming within its jurisdiction, a district court may, on a prosecutor's demand, impose a fine, minor fine, or confiscation upon the criminal defendant by a summary order without ordinary proceedings of trial.

(2) In the case of the preceding paragraph, additional collections and other accessory dispositions may be effected.

Article 449 (Demand for Summary Order)

Demand for summary order shall be made in writing simultaneously with the institution of public prosecution.

Article 450 (Ordinary Adjudication)

If it is considered that a case does not admit of a summary order being issued or that it is not proper to do so, trial shall be conducted in accordance with the ordinary proceedings.

Article 451 (Form of Summary Order)

The facts constituting an offense, statutes applicable, the principal penalty, and auxiliary order, together with a statement that an application for formal trial may be made within seven days from the day of notification of the summary order, shall be clearly stated in the summary order.

Article 452 (Notification of Summary Order)

Notification of summary order shall be made by serving a written order on a prosecutor and the criminal defendant.

Article 453 (Demand for Formal Trial) (1) A prosecutor or the criminal defendant may apply for formal trial within seven days from the day on which he/she has received notification of a summary order: Provided, That a criminal defendant may not waive his/her right to demand formal trial.

(2) An application for formal trial shall be made in writing to the court which has issued the summary order.

(3) When an application for formal trial has been made, the court shall promptly notify the fact to the prosecutor or the criminal defendant.

Article 454 (Withdrawal of Demand for Formal Trial)

An application for formal trial may be withdrawn prior to the rendering of a judgment in the first instance.

Article 455 (Ruling on Dismissal) (1) Where it is obvious that an application for formal trial is made contrary to statutes or subsequent to the termination of the claim, it shall be dismissed by a ruling.

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph.

(3) Where an application for formal trial is considered legal, a trial shall be conducted in accordance with the ordinary proceedings of trial.

Article 456 (Nullification of Summary Order)

When a judgment is given on an application for formal trial, the summary order shall lose its effect.

### Article 457 (Effect of Summary Order)

A summary order shall acquire the same effect as an irrevocable judgment upon the lapse of period for application for formal trial, the withdrawal of such application, or the ruling dismissing the application.

### Article 457-2 (Prohibition of Judgment Disadvantageous to Criminal Defendant)

Where a criminal defendant has applied for a formal trial, no penalty heavier than that imposed by the summary order shall be pronounced.

[This Article Newly Inserted by Act No. 5054, Dec. 29, 1995]

**Article 458 (Provisions Applicable Mutatis Mutandis)** (1) Articles 340 through 342, 345 through 352, and 354 shall apply mutatis mutandis to applications for formal trial or withdrawal thereof.

(2) Article 365 shall apply mutatis mutandis where the criminal defendant who has applied for a formal trial does not appear on the date for the formal trial. <Newly Inserted by Act No. 5054, Dec. 29, 1995>

## PART V EXECUTION OF DECISION

### Article 459 (Final Binding and Execution of Trial)

Except as otherwise provided in this Act, a decision shall be executed after it has become final and conclusive.

**Article 460 (Direction of Execution)** (1) The execution of decision shall be directed by a prosecutor of the prosecutors' office corresponding to the court which rendered such decision: Provided, That this shall not apply to a trial the nature of which requires the direction from a court or a judge.

(2) Where a decision of an inferior court is to be executed as the result of a decision on appeal or of the withdrawal of an appeal, a prosecutor of the prosecutors' office corresponding to the court of appeal shall direct its execution: Provided, That if the records of trial are in the inferior court or a prosecutors' office corresponding to the court, the prosecutor of such prosecutors' office shall direct the execution of the decision.

### Article 461 (Method of Direction of Execution)

The execution of decision shall be directed in writing accompanied by a copy of, or an extract from, the document of decision or the protocol containing the decision: Provided, That the direction, unless it is for the execution of a penalty, may also be given by affixing a seal and initials to original or a copy of or an extract from the document of decision, or a copy of or an extract from the protocol.

### Article 462 (Order of Execution of Penalty)

Where there are two or more principal penalties, the heaviest penalty shall be executed first other than deprivation of qualification, suspension of qualification, a fine, a minor fine, and confiscation: Provided, That a prosecutor may stay execution of the heavier penalty and cause the lesser penalty to be executed, with the permission of the Minister of Justice.

### Article 463 (Execution of Death Penalty)

Death penalty shall be executed by an order of the Minister of Justice.

### Article 464 (Conclusion of Judgment of Death Penalty and Submission of Records of Trial)

When the judgment which has pronounced death penalty becomes final and conclusive, the prosecutor shall submit the records of trial to the Minister of Justice without delay.

Article 465 (Time to Order Execution of Death Penalty) (1) The order to execute death penalty shall be given within six months from the day when a judgment becomes final and conclusive.

(2) Where a request for the recovery of right of appeal or for reopening of procedure or application for an extraordinary appeal has been made, the time for completion of such procedure shall not be calculated in the period of six months.

Article 466 (Period of Execution of Death Penalty)

In the event of the Minister of Justice having ordered the execution of death penalty, such execution shall be carried out within five days.

Article 467 (Presence in Execution of Death Penalty) (1) Death penalty shall be executed in the presence of the prosecutor, a secretary of a prosecutors' office, and the warden of a prison or detention house or his/her representative. <Amended by Act No. 1500, Dec. 13, 1963>

(2) No person shall enter the place of execution except with the permission of a prosecutor or the warden of a prison or detention house. <Amended by Act No. 1500, Dec. 13, 1963>

Article 468 (Protocol of Execution of Death Penalty)

A secretary of a prosecutors' office who attends the execution of death penalty shall make an account of the execution, on which he/she shall print his/her name and affix his/her seal or write his/her signature jointly with the prosecutor and the warden of a prison or detention house or his/her representative. <Amended by Act No. 1500, Dec. 13, 1963; Act No. 8496, Jun. 1, 2007>

Article 469 (Suspension of Death Penalty) (1) If a person condemned to death penalty is devoid of mental capacity due to a mental disorder or a woman condemned to death penalty is pregnant, the execution shall be stayed by order of the Minister of Justice.

(2) Where the execution of death penalty has been stayed pursuant to the preceding paragraph, the penalty shall be executed by order of the Minister of Justice, subsequent to recovery from the mental disorder or after childbirth.

Article 470 (Suspension of Execution of Imprisonment) (1) If a person condemned to imprisonment with or without labor, or misdemeanor imprisonment is devoid of mental capacity due to a mental disorder, the execution shall be stayed until his/her recovery from the mental disorder, subject to the direction of a prosecutor of the prosecutors' office corresponding to the court which pronounced the penalty or of a prosecutor of the prosecutors' office having jurisdiction over the place where the condemned person is situated.

(2) Where the execution of penalty has been stayed pursuant to the preceding paragraph, a prosecutor shall deliver the condemned person to a person who is bound to guard and protect him/her or to a local public organization and cause him/her to be placed in a hospital or other suitable place.

(3) A person for whom the execution of a penalty has been stayed shall be detained in a prison or detention house until the disposition provided for in the preceding paragraph has been effected, and the period of such detention shall be included in the term of the penalty. <Amended by Act No. 1500, Dec. 13, 1963>

Article 471 (Idem) (1) The execution of imprisonment with or without labor, or misdemeanor imprisonment may be stayed in the following cases, subject to the direction of a prosecutor of the prosecutors' office corresponding to the court which has pronounced the penalty or of a prosecutor of the prosecutors' office having jurisdiction over the place where the condemned person is situated:

<Amended by Act No. 8730, Dec. 21, 2007>

1. If the health of the condemned person will be seriously impaired as a result of the execution of penalty or there is apprehension that the condemned person will not survive it;
2. If the condemned person is 70 years of age or over;
3. If the condemned person is in the sixth month of pregnancy or more;
4. If 60 days have not elapsed after the condemned person was delivered of a child;
5. If the lineal ascendants of the condemned person are 70 of age or over, or disabled or seriously ill, and there is no relative to look after them;
6. If the lineal descendants of the condemned person are in their infancy and there is no relative to look after them;
7. If there is any other valid reason.

(2) The prosecutor shall obtain permission of the chief prosecutor of the high prosecutors' office or of the district prosecutors' office to which he/she belongs in matters pertaining to the preceding paragraph. <Amended by Act No. 7078, Jan. 20, 2004; Act No. 8496, Jun. 1, 2007>

Article 471-2 (Deliberative Committee on Suspension of Execution of Penalty) (1) In order to deliberate on matters related to suspension of execution of penalty under Article 471 (1) 1 and the extension thereof, a deliberative committee on suspension of execution of penalty (hereafter referred to as "Deliberative Committee" in this Article) shall be established in each district prosecutors' office.

(2) The Deliberative Committee shall be composed of up to ten members, including one Chairperson, and members of the Deliberative Committee shall be appointed or commissioned by the chief prosecutor of each district prosecutors' office, from among those with good knowledge and experience in academia, the legal sector, the medial sector, civic groups, etc.

(3) Matters necessary for the composition, operation, etc. of the Deliberative Committee shall be prescribed by Ordinance of the Ministry of Justice.

[This Article Newly Inserted by Act No. 13454, Jul. 31, 2015]

Article 472 (Suspension of Execution of Costs of Trial)

Where the request provided in Article 487 is made within the period allowed for making such request, the execution of the decision ordering the costs of trial to be borne shall be stayed until the decision on the request becomes finally binding.

Article 473 (Summon for Execution) (1) If a person condemned to death penalty, imprisonment with or without labor, or misdemeanor imprisonment is not under confinement, a prosecutor shall summon him/her for the purpose of the execution of penalty.

(2) If the person fails to appear in response to the summons, a prosecutor shall take him/her into custody by issuing a warrant of execution of punishment. <Amended by Act No. 2450, Jan. 25, 1973>

(3) In the case of paragraph (1), if any person who has been sentenced to punishment flees or is likely to flee or his/her whereabouts is unknown, a prosecutor may take him/her into custody by issuing a warrant of execution of punishment, without summoning him/her. <Amended by Act No. 2450, Jan. 25, 1973>

Article 474 (Method and Effect of Warrant of Execution of Punishment) (1) A warrant of execution of punishment under the preceding Article shall contain the convicted persons' names, addresses, ages, names of punishments, period of punishments, and other necessary matters.

(2) A warrant of execution of punishment has the same effect as a warrant of arrest.

[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 475 (Execution of Warrant of Execution of Punishment)

The provisions on detention of the criminal defendant in Chapter IX of Part I shall apply mutatis mutandis to executing a warrant of execution of punishment under the preceding two Articles.
[This Article Wholly Amended by Act No. 2450, Jan. 25, 1973]

Article 476 (Execution of Penalty concerning Qualification)

The name of the person who has been sentenced to deprivation of qualification or suspension of qualification shall be entered in original list of sentenced persons and a copy shall be served without delay on the head of the relevant Si (referring to the Si where no Gu is established; hereinafter the same shall apply) or the head of the relevant Gu/Eup/Myeon (in the Si which is of the urban and rural complex type, it means the head of the Si/Gu in case of the Dong area, and the head of the Eup/Myeon in case of the Eup/ Myeon area) in the reference domicile and domicile of the sentenced person. <Amended by Act No. 4796, Dec. 22, 1994; Act No. 8435, May 17, 2007>

Article 477 (Execution of Penalty concerning Property) (1) A decision on a fine, a minor fine, confiscation, additional collection, an administrative fine, costs of trial, compensation for costs, or provisional payment shall be executed by an order of a prosecutor.

(2) An order referred to in the preceding paragraph shall have the same effect as a title of execution with executory power.

(3) The provisions of execution provided for in the Civil Execution Act shall apply mutatis mutandis to the execution of decisions referred to in paragraph (1): Provided, That the service of the decision is not necessary prior to the execution. <Amended by Act No. 6627, Jan. 26, 2002; Act No. 8496, Jun. 1, 2007>

(4) Notwithstanding paragraph (3), the decision under paragraph (1) may be executed in the same manner as delinquent national taxes are collected under the National Tax Collection Act. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(5) A prosecutor may conduct such investigation as may be necessary for executing the decision under paragraph (1). In such cases, Article 199 (2) shall apply mutatis mutandis. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

Article 477 (Execution of Penalty concerning Property) (1) A decision on a fine, a minor fine, confiscation, additional collection, an administrative fine, costs of trial, compensation for costs, or provisional payment shall be executed by an order of a prosecutor.

(2) An order referred to in the preceding paragraph shall have the same effect as a title of execution with executory power.

(3) The provisions of execution provided for in the Civil Execution Act shall apply mutatis mutandis to the execution of decisions referred to in paragraph (1): Provided, That the service of the decision is not necessary prior to the execution. <Amended by Act No. 6627, Jan. 26, 2002; Act No. 8496, Jun. 1, 2007>

(4) Notwithstanding paragraph (3), the decision under paragraph (1) may be executed in the same manner as delinquent national taxes are collected under the National Tax Collection Act. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(5) A prosecutor may conduct such investigation as may be necessary for executing the decision under paragraph (1). In such cases, Article 199 (2) shall apply mutatis mutandis. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(6) Matters necessary for methods of payment, including payment in installments of a fine, minor fine, additional collection, administrative fine, litigation costs, or compensation for costs, deferment of payment, and payment via an agency for vicarious payment, shall be prescribed by Ordinance of the Ministry of Justice. <Newly Inserted by Act No. 13720, Jan. 6, 2016>

< <Enforcement Date : Jan. 7, 2018>>

Article 478 (Execution for Estate of Inheritance)

Confiscation, a fine, or additional collection imposed under the provisions of statutes relating to taxes, government monopolies, or other imposts, may be executed upon the property of succession in the event a person subject to a judgment dies after the judgment has become final and conclusive.

Article 479 (Execution for Juristic Person after Merger)

If a juristic person has been sentenced to a fine, a minor fine, confiscation, additional collection, costs of trial, or compensation for costs, and then if such juristic person has been extinguished by merger after the judgment becomes final and conclusive, the penalty may be executed on the juristic person which continues in existence after the merger or which has been formed by the merger.

Article 480 (Arrangement of Execution of Provisional Payment of Detention)

If a decision for provisional payment was made in the second instance subsequent to the execution for decision of provisional payment in the first instance, such execution shall be applied to the decision in the second instance to the extent of the amount of money ordered to be paid by the decision in the second instance.

Article 481 (Execution of Provisional Payment and Execution of Principal Punishment)

If a decision of a fine, a minor fine, or additional collection has become final and conclusive after the execution of decision of provisional payment, the penalty shall be deemed to have been executed to the extent of the amount paid.

Article 482 (Inclusion of Number of Detention Days, etc. before Conclusion of Judgment) (1) The entire number of days of detention after pronouncement of judgement and before conclusion of judgement (including the number of days of detention on the day of pronouncement of judgement) shall be included in the period of principal punishment: <Amended by Act No. 13454, Jul. 31, 2015>

(2) Upon dismissing the appeal, the whole number of days of detention pending the application for appeal during the period for service or immediate complaint shall be included in the period of principal punishment. <Newly Inserted by Act No. 8496, Jun. 1, 2007>

(3) In the cases of paragraphs (1) and (2), one day in the number of detention days shall be counted as one day of term of punishment or one day of detention term of a fine or minor fine. <Amended by Act No. 13454, Jul. 31, 2015>

<This paragraph deleted by Act No. 13454 on Jul. 31, 2015, following the decision on unconstitutionality made by the Constitutional Court on June 27, 2012>

Article 483 (Disposition of Confiscated Goods)

Confiscated goods shall be disposed of by a prosecutor. <Amended by Act No. 5054, Dec. 29, 1995>

Article 484 (Delivery of Confiscated Goods) (1) If, within three months from the execution of confiscation, the delivery of the confiscated goods is demanded by the person lawfully entitled, a prosecutor shall deliver them, with the exception of those which are to be destroyed or thrown away.

(2) If the demand referred to in the preceding paragraph is made after the confiscated goods have

been disposed of, a prosecutor shall deliver the proceeds realized at the public sale.

Article 485 (Indication of Forgery) (1) Where an article forged or altered is restored, the whole or forged part of such article shall be indicated.

(2) Where the article forged or altered has not been seized, it shall be caused to be produced and the measures specified in the preceding paragraph shall be taken: Provided, That if the article belongs to a public office, the office shall be notified of the forgery or alteration and advised to take suitable measures.

Article 486 (Incapable Payment and Notification) (1) Where goods under seizure cannot be restored because the whereabouts of the person entitled to such restoration is unknown or for any other reason, a prosecutor shall give public notice to such effect in the Official Gazette.

(2) If restoration is not requested in three months from the time of announcement, the articles shall belong to the National Treasury. <Amended by Act No. 2450, Jan. 25, 1973>

(3) Even before the end of the period prescribed in the preceding paragraph, if an article has no value it may be destroyed, or if it is impracticable to keep it in custody it may be put to a public sale and the price therefrom may be kept in custody instead. <Amended by Act No. 8496, Jun. 1, 2007>

Article 487 (Application for Exemption of Costs of Trial)

If a person who has been ordered to bear the costs of trial cannot make full payment because of poverty, he/she may request the court which rendered the decision ordering such costs to be borne by him/her to exempt him/her from the execution of the decision in respect to all or part of such costs within ten days from the day when the decision has become final and conclusive.

Article 488 (Request for Doubt)

If a person condemned to a penalty has any doubt in regard to the interpretation of the decision, he/she may request the court which pronounced the decision for an interpretation.

Article 489 (Request for Objection)

If a person against whom a decision is to be executed, or his/her legal representative or spouse, considers any disposition effected by a prosecutor in regard to the execution to be improper, he/she may raise an objection to the court which pronounced such decision.

Article 490 (Withdrawal of Requests) (1) Requests filed pursuant to the preceding three Articles may be withdrawn at any time before a ruling is rendered thereon.

(2) Article 344 shall apply mutatis mutandis to requests filed pursuant to the preceding three Articles and to the withdrawal thereof.

Article 491 (Immediate Complaint) (1) Where an application referred to in the Articles 487 through 489 has been filed, the court shall render a ruling on it.

(2) An immediate complaint may be filed against a ruling referred to in the preceding paragraph .

Article 492 (Execution of Detention in Workhouse)

As regards the execution of a sentence of detention in a workhouse because of inability to make full payment of a fine or minor fine, the provisions relating to the execution of punishment shall apply mutatis mutandis.

Article 493 (Costs of Execution to be Charged)

The costs of execution of any of the decision referred to in Article 477 (1) shall be charged to a person on whom such execution is levied and shall be collected simultaneously with the execution in accordance with the Civil Execution Act. <Amended by Act No. 6627, Jan. 26, 2002; Act No. 8496, Jun. 1, 2007>

ADDENDA

Article 1

ADDENDA <Act No. 705, Sep. 1, 1961>

(1) (Transitional Provisions) This Act shall apply to the cases pending in the court at the time of enforcement of this Act: Provided, That this shall not modify the effect of any procedural acts taken prior to the enforcement of this Act.

ADDENDA <Act No. 1500, Dec. 13, 1963>

(1) This Act shall enter into force on December 17, 1963.

ADDENDA <Act No. 2450, Jan. 25, 1973>

(1) (Enforcement Date) This Act shall enter into force on February 1, 1973.

ADDENDUM <Act No. 2653, Dec. 20, 1973>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 3282, Dec. 18, 1980>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 3955, Nov. 28, 1987>

(1) (Enforcement Date) This Act shall be effective on February 25, 1988.

ADDENDA <Act No. 4796, Dec. 22, 1994>

Article 1 (Enforcement Date)

ADDENDA <Act No. 5054, Dec. 29, 1995>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1997: Provided, That the revised provisions of Articles 56-2, 361, 361-2, 377 shall be effective as from the date of promulgation.

ADDENDA <Act No. 5435, Dec. 13, 1997>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <Act No. 6627, Jan. 26, 2002>

Article 1 (Enforcement Date)

ADDENDA <Act No. 7078, Jan. 20, 2004>

Article 1 (Enforcement Date)

ADDENDUM <Act No. 7225, Oct. 16, 2004>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 7427, Mar. 31, 2005>

Article 1 (Enforcement Date)

ADDENDA <Act No. 7965, Jul. 19, 2006>

(1) (Enforcement Date) This Act shall enter into force one month after the date of its promulgation.

ADDENDA <Act No. 8435, May 17, 2007>

Article 1 (Enforcement Date)

ADDENDA <Act No. 8496, Jun. 1, 2007>

Article 1 (Enforcement Date)

ADDENDA <Act No. 8730, Dec. 21, 2007>

Article 1 (Enforcement Date)

ADDENDA <Act No. 9765, Jun. 9, 2009>

Article 1 (Enforcement Date)

ADDENDA <Act No. 10864, Jul. 18, 2011>

Article 1 (Enforcement Date)

ADDENDA <Act No. 11002, Aug. 4, 2011>

Article 1 (Enforcement Date)

ADDENDA <Act No. 11572, Dec. 18, 2012>

Article 1 (Enforcement Date)

ADDENDA <Act No. 11731, Apr. 5, 2013>

Article 1 (Enforcement Date)

ADDENDUM <Act No. 12576, May 14, 2014>

This Act shall enter into force on the date of its promulgation.

ADDENDUM <Act No. 12784, Oct. 15, 2014>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 12899, Dec. 30, 2014>

Article 1 (Enforcement Date)

ADDENDA <Act No. 13454, Jul. 31, 2015>

Article 1 (Enforcement Date)

ADDENDA <Act No. 13720, Jan. 6, 2016>

Article 1 (Enforcement Date)

ADDENDA <Act No. 14179, May 29, 2016>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 35 (3) and (4) shall enter into force on October 1, 2016.

Article 2 (Applicability to Admissibility of Evidence of Statement, etc.)

The amended provisions of Article 313 and the main sentence of Article 314 shall apply beginning with the first case for which a prosecution is instituted after this Act enters into force.