LAW ON CRIMINAL PROCEDURE
/Renewed version/
PART I
GENERAL GROUNDS
CHAPTER ONE
GOAL AND PRINCIPLE OF CRIMINAL PROCEDURE

Article 1.1. The goal of the criminal procedure

1.Goal of the criminal procedure is detecting crimes promptly and fully, identifying individuals and legal entities that perpetrated crime and imposing fair penalties for the crime, avoiding presumption of innocence, and protecting human rights and legal interests, guaranteeing reparations of violated rights.

Article 1.2. Limitations of criminal procedure

1. Proceedings on a criminal case on the territory of Mongolia, regardless of the place of committing the crime, shall be conducted in conformity with this law.

2. Proceedings on a criminal case shall be conducted in conformity with the law on criminal procedure which is valid at the respective time.

3. Present law shall also be applied in proceedings on a criminal case for a crime committed on the territory of Mongolia, on the territory of Diplomatic missions in foreign countries, and on-air and water vessels of the country that is traveling in air and water spaces.

4. Proceedings on the criminal cases committed by foreign citizens and stateless persons on the territory of Mongolia shall be conducted in conformity with the rules of the present law

5. Procedural actions stipulated by the present law with respect to the accusation of the persons enjoying diplomatic immunity from a foreign country or international organizations, shall be conducted only at the request of the Prosecutor General of Mongolia to the relevant organization or such persons' domicile country, which shall be inquired after through the central state administrative body in charge of foreign affairs of Mongolia.

Article 1.3. Language and script of the criminal proceedings

1. The criminal proceedings shall be conducted in the Mongolian language and shall be written down and documented in the state official language and script.

2. If a person participating in a criminal proceeding does not have command of the Mongolian language, or has limited ability to express his/her legal interests due to visual, hearing, or speaking disability, such person shall be provided with rights to use his/her mother languages and scripts or other languages and scripts known to him/her or sign language and sign language, gestures and special signs, and get assistance from translator and/or interpreters.

Article 1.4. Terms and Definitions

1. The following terminologies used in this law shall have meanings stated below:

1.1. "Court of first instance" means courts with jurisdictions stated by law for adjudicating criminal cases according to first instance rules;

1.2. "Other places" refers to accommodation, facilities, premises, and other objects other than a dwelling of individuals and legal entities under their ownership and possession;

1.3. "Other participants" refers to witness, expert, professional, translator/interpreter, third-party witness, and secretary of a court;

1.4. "Family member" means persons stated in section 3.1.4 of Law on Family;

1.5. "Appointed advocate" means an advocate participating in a criminal proceeding for certain circumstances set forth in the law;

1.6. "Court of appellate instance" means courts with jurisdictions stated by law for adjudicating criminal cases according to appellate instance rules;

1.7. "Immediately" means the shortest possible period of time;

1.8. "Investigator" means officials authorized to carry out inquiry and investigation;

1.9. "Investigative action" means action or process specified in this law to be carried out with the permission of the prosecutor or independently by the investigator within the inquiry and investigation stages;

1.10. "Undercover investigative action" means covert action or process specified in this law to be carried out with permission from the prosecutors;

1.11. "Head of an investigation unit" means the leader of inquiry and investigation units of the organization that carries out investigative operations;

1.12. "Investigation organization" means organizations that are authorized to carry out inquiry and investigation as stated by this law;

1.13. "Participant" means the suspect, accused, and defendant, victim, civil claimant, civil respondent, legal entity and their legal representatives and advocates;

1.14. "Dwelling" means a place defined in the Explanation of Article 13.6 of the Criminal Code;

1.15. "Translator" means a person participating in the criminal proceeding by providing written translations for a person that has no command of Mongolian language and/or script from his/her mother language or the language that he/she has good command into Mongolian language and script, or from Mongolian language and script into his/her mother language, or a language and script that he/she has good command;

1.16. "Defending Party" means defendant, his/her legal representative, and the defense advocate;

1.17. "Suspected, accused, defendant juvenile" means individuals defined in section 1 of Article 8.1 of the Criminal Code;

1.18. "Prosecutor" means upper-level prosecutors and other prosecutors stated in Law on Prosecutor;

1.19. "Relative" as defined in section 3.1.6 of Law on Family;

1.20. "Parties" means participants of the competitive argument of the court trial with equal rights who have the function to accuse or defend (from accusation);

1.21. "Special knowledge" means knowledge that a person obtained in the areas of science, history, culture, technology, arts, handcrafting, and other knowledge that are required for establishing the facts of a criminal case;

1.22. "Close relative" means persons stated in section 3.1.5 of Law on Family;

1.23. "Reasonable suspicion" means the truthful belief of investigator, prosecutor, and/or judge grounded on circumstance where specific procedural action stated in this law should be initiated, or on the information about the reasonably certain commission of a criminal offense, or other circumstances of a criminal case;

1.24. "Child under one's legal guardianship" means an individual is a birth parent of such child or child is stepchild, adopted child, grandchild, great-grandchild, or great-great-grandchild of the individual;

1.25. "Reasonable ground" means the circumstance that influences judge, prosecutor, and investigator's decision stated in this law has been established based on facts;

1.26. "Urgent circumstance" means it is reasonably certain that substantial damage is threatening life, health, a property of a person, or that suspect or accused will flee, or that trace or physical evidence of a crime will be destroyed, moved, concealed, or vanished;

1.27. "Cessation instance court" means the Supreme Court of Mongolia;

1.28. "Interpreter" means a person participating in the criminal proceeding by providing interpretations for a person that has no command of Mongolian language from his/her mother language or the language that he/she has good command into Mongolian language, or from Mongolian language into his/her mother language, or a language that he/she has good command, or interpreting sign language for persons with hearing and/or speaking disability;

1.29. "Expert witness" means expert that is defined in section 6.1.2 of Law on Forensics

1.30. "Nighttime" means a period of time from 22:00 of a certain day to 06:00 of the following day;

1.31. "Judge" means chief justices and justices of courts of all instances;

1.32. "Citizens' representative of the court" means a citizen participating in an adjudication in order to strengthen the principles of judicial transparency and establishing community oversight on the adjudication process;

1.33. "Court decision" means decisions stated in sections 31.3 and 31.4 of Mongolian Law on Court;

1.34. "Decision of prosecutor" means decisions stated in section 31.3 of Law on Prosecutor;

1.35. "Decision of investigator" means an order issued by the investigator during the criminal proceeding;

1.36. "Criminal proceedings" means the process of inquiry, investigation, prosecutor's supervision over the inquiry and investigation, transferring accused to the court, and adjudicating criminal case under first, appellate, and cessation instance rules;

1.37. "Prosecuting party" means the prosecutor

Article 1.5. Circumstances which criminal proceedings should not be carried out

1. For the following circumstances, the criminal proceedings should not be carried out:

1.1. any statutory element of a criminal offense is absent;

1.2. the period for limitations has expired;

1.3. accused or defendant died /except for posthumous exonerations, or re-opening criminal case based on newly discovered circumstances concerning other persons/;

1.4. Court decision on repealing the same case remains valid;

1.5. suspected or accused act or omission is no longer considered as a crime.

2. Criminal court shall complete the adjudication process and issue a decree of acquittal in case circumstance stated in section 1.1 of the current Article is found during the judicial examination of a criminal case.

3. If a criminal case is repealed based on sections 1.1 or 1.2 of the current Article and it is objected by the accused, and defendant, their legal representative, and defense advocate, or a case is repealed based on section 1.3 of the current Article and it is objected by the accused, his/her defense advocate, family member, and relatives, then the person who objects such revocation should file a complaint to the prosecutor or the court, and the court shall continue conducting criminal adjudication under usual procedural rules and shall review and resolve the guilt of accused person or legal entity involved in the case.

4. If a criminal case is repealed according to section 1 of this Article, the victim, or his/her legal representative and/or advocate shall be informed, and they shall have the right to submit a complaint about the court decision according to the rules of this law.

Article 1.6. Lawfulness of criminal proceedings

1. During criminal proceedings, the court, the prosecutor, and investigator shall strictly comply with the Constitution of Mongolia, this law, and regulations of other relevant laws.

2. If persons carrying out criminal proceedings violated regulations stated in section 1 of this Article, the decision of such person shall be annulled according to grounds and rules set forth in this law, and the person who violated law shall be responsible according to laws.

3. When exercising its power under the law, a court considers that a law does not comply with the Constitution of Mongolia, it shall suspend relevant proceedings of the case and submit its proposal to the Supreme Court about the noncompliance, and if the Supreme Court, by its session, considers this proposal as reasonably grounded, the Supreme Court shall submit its request to the Constitutional Court.

4. If a prosecutor considers that law applies in inquiry or investigation procedure does not comply with the Constitution of Mongolia, it shall submit its proposal to the Prosecutor General about the noncompliance, and if the Prosecutor General, after reviewing this proposal, considers the proposal as reasonably grounded, it shall submit its request to the Constitutional Court.

5. Subordinate legislation to be issued in line with regulations of the Criminal Procedure Law shall be coherent to and compliant with the principles and regulations of this law.

6. For regulating criminal proceedings, it shall be prohibited to issue any subordinate legislation or to set norms in any way that is not stated by this law.

Article 1.7. Finding the objective truth of a criminal case

1. Investigator and prosecutor shall be obliged to establish facts of a case by carefully checking and examining evidence fully and objectively from all available aspects.

2. To prove the objective truth of a criminal case, the investigator and prosecutor shall take all measures provided by the law and shall unquestionably establish grounds for acquittal or conviction and aggravating and/or mitigating circumstances of criminal penalties.

3. Court shall establish objective truth based on the adversarial argument of parties.

4. Court, prosecutor, and investigators shall be prohibited to demand the suspect, accused, and defendant to prove their innocence by themselves.

Article 1.8. Ensuring the right to liberty and security of a person

1. Arbitrary to grounds and rules established by this law, no one shall be subjected to search, arrest, detention, persecution, deprivation of liberty, inviolability of property, illegal accusation, considering guilty, and criminal penalty.

2. Unless it is otherwise stated by law, the prosecutors shall immediately release the person who was arrested without a warrant issued by the court or who has been arrested and detained longer than the period provided by the court decision.

3. During the arrest of a person, the reason and grounds for the arrest should be informed and the right to legal counsel, right to represents himself or herself in criminal proceedings, right to complain to court and the privilege against self-incrimination should be reminded to the person under arrest.

Article 1.9. Freedom from torture or inhuman treatment

1. Participants of criminal proceedings shall be free from torture, cruel, inhuman, and degrading treatment.

2. During the testimony of suspect, accused, and defendants, victim, and witness, it shall be prohibited to treat in inhumane ways or to apply methods that may damage their reputation, dignity, body, and mentality.

Article 1.10. Inviolability of dwelling

1. Dwelling shall be inviolable.

2. A search in a dwelling should be carried out in compliance with the grounds and rules provided by this law.

Article 1.11. Ensuring protection of private and family confidentiality, and correspondence

1. Citizen's private and family confidentiality, and correspondence shall be protected by law, and related rights may only be limited by grounds and rules stated by law.

Article 1.12. Equality before the law and court

1. All persons shall be equal before the law and court in Mongolia regardless of ethnicity, origin, language, race, age, sex, social origin and status, wealth, occupation, title and position, religion, sexual orientation and gender identity, disability, thoughts and opinions, and education of individuals, and irrespective to property, income, the scope of activity, type of organization of legal entities.

Filing complaint to court

1. In case persons and legal entities consider that their legally protected rights and legal interests are affected and/or violated, they shall have the right to file complaints to the court claiming for the restoration of violated rights.

Article 1.14. Guaranteeing the right to legal counsel and advocate's service

1. Persons who consider that their rights and legal interests are affected and/or violated, shall have the right to legal counsel, the right to self-represent, or to have an advocate's service.

2. Individuals and legal entities shall be provided with opportunities, conditions, and time to lawfully exercise their right to legal counsel, right to self-representation, and right to have an advocate's service.

Article 1.15. Presumption of innocence

1. No one shall be presumed guilty of committing a crime until a court decision establishes the guilt.

2. When there is a doubt about the suspected, accused, or defendant's guilt even after careful examination of all available evidence of a criminal case or a doubt about interpretation or application of the Criminal Law, and this law, it shall be settled in favor of the suspect, accused, defendant, or convict.

CHAPTER TWO

JURISDICTION OF CRIMINAL PROCEEDING

Article 2.1. Common grounds for setting jurisdictions for criminal proceedings

1. Criminal proceedings shall be subject to territorial and legal jurisdictions stated in this law.

2. if a crime is committed outside the border of Mongolia or it is unable to determine the place of a crime or a crime is committed on the territory of Diplomatic missions in a foreign country or on the board of Mongolian water or air vessels within air and water spaces, then the jurisdiction of inquiry and investigation of such crimes shall be determined by the decision of the Prosecutor General of Mongolia and judicial jurisdiction of such crimes shall be determined by the decision of the Chief Justice of the Criminal Chamber of the Supreme Court of Mongolia.

3. If inquiry or investigation of a crime was initiated under the jurisdiction of a judge or prosecutor and it is found that the crime is not within his/her jurisdiction, the given criminal case shall be handed over to the proper jurisdiction of inquiry and investigation organization or court.

4. Judges, prosecutors, and investigators shall be prohibited to make a dispute over the jurisdiction of crimes set forth in this law, and investigators, prosecutors should investigate, prosecute and judges should adjudicate cases transferred to their jurisdiction.

Article 2.2. Judicial jurisdiction

1. A case shall be subject to the jurisdiction of the court of the territory where the crime was committed.

2. Cases received by a court of first instance shall be distributed according to the case distribution rule set by the meeting of all judges of the respective court.

3. Criminal cases except those were specifically provided by law shall be reviewed and resolved by soum, inter-soum, and district courts according to first instance rules.

4. If a case is not within the jurisdiction of the given court, it shall refer to the court of proper jurisdiction by the decision of a judge.

5. In case a court does not have a full judicial panel for trying a certain criminal case, the case shall be handed over from a soum court to a soum or inter-soum court of another aimag, from an inter-soum court to a district court by the decision of the Chief Justice of the Chamber for Criminal Cases of the Supreme Court, or the case shall be handed over from a soum court to other soum or inter-soum court of the same aimag or from a district court to another district court by the decision of the Chief Justice of the court of the given aimag court or the capital city court.

/This section was amended by the law dated January 10, 2020/

6. If a crime is committed spreading on territories that include jurisdictions of several courts, it shall be subject to the jurisdiction of a court of the territory where the last criminal act took place.

7. If a crime is initially started on the territory subject to the jurisdiction of a court, but was completed on the territory subject to the jurisdiction of another court, it shall be subject to the jurisdiction of a court of the territory where the crime is completed.

8. If it was found during a court trial that the case in discussion belongs to the jurisdiction of another court with the same competence and it would not affect the establishment of all necessary facts of such case fully and objectively, the court trial shall continue and the court shall make its final decision.

9. In case an investigative operation took place on the territory where the majority of the participants and witness/es reside or the investigative operation was carried out by a specialized

investigation unit, then judicial jurisdiction of such case may be changed by the Chief Justice of the Chamber for Criminal Cases of the Supreme Court based upon the proposal of the prosecutor.

Article 2.3. Jurisdiction of inquiry and investigation

1. Inquiry and investigation shall be carried out according to territorial jurisdictions set forth in this law.

2. By the decision of the prosecutor, intelligence organization, police organization, and Authority Against Corruption may carry out joint inquiry and investigation according to regulations of this law.

3. In case a crime falls under the competencies of several organizations of inquiry and investigation, the prosecutor shall determine the jurisdiction of inquiry and investigation for such crime.

4. In order to ensure expedient and full inquiry and investigation, the prosecutor may decide to carry out inquiry and investigation on the territory where the crime was discovered or where the majority of participants, witnesses, and victims are residing, otherwise, the prosecutor may change the jurisdiction by handing over the case to the competence of a specialized investigation unit.

5. If an investigator finds that the case under his/her inquiry or investigation is not within the proper jurisdiction, the investigator shall promptly deliver its proposal to the prosecutor to transfer the case to the proper jurisdiction.

6. Within three working days from receipt of the request for determining the jurisdiction of inquiry and investigation, the prosecutor shall make a decision based on rules provided by this law.

II PART

PERSONS WHO CARRY OUT CRIMINAL PROCEEDINGS AND PARTICIPANTS OF THE PROCEEDINGS

CHAPTER THREE

COURT

Article 3.1. Court adjudication of criminal case

1. Court of first instance shall try and adjudicate if the defendant is guilty of committing a crime or not, and if the court established the guilt, it shall make a decision on the imposition of criminal penalty stated in the Criminal Code.

2. Court of appellate instance shall try and review if appellate complaints and/or objections of parties submitted regarding the trial process and the decision of the court of first instance have reasonable legal grounds.

3. Court of cessation instance, based on the complaint and/or objection, shall try and resolve the dispute on whether the court applied the Criminal Code correctly or not, and/or whether the court adversely violated the Criminal Procedure Law.

4. Court shall resolve issues that arisen during the inquiry and investigation if such issues are within its jurisdiction according to this law.

Article 3.2. Open court principle

1. All hearings and trials of courts of every instance shall be open to the public except there is a need for protecting state, corporate, or individual confidentiality, and except for criminal cases associated with juvenile defendants or victims under 18 years old.

2. In order to protect the rights and legal interests of juvenile accused and victims under 18 years old, a court trial may be held open to the public at the request of the prosecutor, or legal representative, and/or advocate of the victim.

3. In case that the court trial was conducted as closed to the public, the resolution part of the court decision shall be read aloud as open to the public.

Article 3.3. Composition of judicial panel in criminal adjudication

1. When the court tries criminal cases punishable by imprisonment of more than 8 years according to the Special Part of the Criminal Code, the trial shall be performed by the judicial panel of three judges, and other crimes shall be tried by a judge on his/her own.

2. In case a judge considers that a criminal case subject to his/her consideration according to section 1 of this Article is too complex, the judge can submit his/her proposal to the Chief Justice and the trial of such case may be performed by the judicial panel of three judges.

3. An appellate instance trial of a criminal case shall be performed by the judicial panel of three judges.

4. A cessation instance trial of a criminal case shall be performed by the judicial panel of five judges.

5. A judge on his/her own shall consider issues within the jurisdiction stated by this law except for those set forth in sections 1, 2, 3, and 4 of this Article.

6. The composition of judicial panel that considers criminal cases according to this Article and the presiding judge shall be appointed according to the rule set by the meeting of all judges of the relevant court.

7. If a soum, inter-soum, district, aimag, or the capital city court does not have a full composition of judicial panel to consider a certain criminal case, a judge shall be appointed to the judicial panel of soum, inter-soum, or district court according to the rule set by the Chief Justice of the relevant aimag court or the capital city court, and a judge shall be appointed to the judicial panel of an aimag or the capital city court according to the rule developed by the meeting of all judges of the Chamber for Criminal Cases of the Supreme Court and approved by the decision of the Chief Justice of the Chamber for Criminal Cases of the Supreme Court.

/This section was amended by the law dated January 10, 2020/

Article 3.4. Citizens' representative of the court

1. Citizens' representative of the court shall take part at first instance trial of the criminal case to be performed by the judicial panel according to Law on Legal Status of Citizens' Representative of the Court.

2. Citizens' representative of the court shall have the following rights:

2.1. to take part in analyzing of evidence during the judicial proceeding and ask questions with permission of the presiding judge;

2.2. to write a proposal about the defendant's guilt and read such a proposal.

CHAPTER FOUR

THE PROSECUTOR

Article 4.1. Power of the prosecutor

1. Prosecutor shall supervise the inquiry and investigative process and take part in a court trial as the public prosecutor on behalf of the state.

2. In the course of supervising the inquiry and investigation process, the prosecutor shall exercise the following power:

2.1. to supervise whether the process of receiving, inquiry, and investigation of reports and complaints are lawfully carried out;

2.2. to initiate an inquiry case and transfer the case to the proper jurisdiction of an investigation organization in case a prosecutor discovered statutory element of a criminal offense;

2.3. to determine the jurisdiction of inquiry and investigation;

2.4. to resolve request and proposals on protecting the safety of witness and victim;

2.5. to initiate a criminal case and accuse, or to amend, modify, or annul the order of accusation;

2.6. to close a case at the inquiry stage, refuse from initiation of a criminal case and accusation, suspend or restore investigation of a criminal case, repeal or re-open a criminal case at the investigation stage, consolidate, and separate criminal cases;

2.7. to submit a proposal on the arrest of a suspect to the court except for urgent circumstances, and order the investigator to carry our arrest operations;

2.8. to extend the duration of inquiry or investigation;

2.9. to submit a proposal on taking restraining measures for the accused, changing the type restraining measures, terminating such measures, or extending the duration of measures to the court;

2.10. to give permission to the investigator to carry out investigative operations in compliance with this law;

2.11. to summon witness, victim, civil claimant, civil respondent, expert witness, and defendant by sending summoning order;

2.12. to take the case file for review in order to resolve complaints and requests that were filed by participants under this law;

2.13. to resolve a request about challenging the investigator or the prosecutor supervising the case, to make decisions to transfer the case to another investigator or prosecutor;

2.14. when such complaints fall under his/her power, to resolve complaints about investigator's or the prosecutor's decisions and/or actions, to annul such decisions if considers them as ill-grounded and cease unlawful actions of an investigator or other authorized officials;

2.15. to give an order to conduct investigative operation and ensure its implementation, to give such order to several investigators when necessary, to take part in the investigative operations in-person to perform supervision, and to return the case to the investigator for additional investigation;

2.16. as the upper-level prosecutor, to supervise the decisions and actions made by the supervising prosecutor of a criminal case based on the proposal from the investigator of the same case;

2.17. to forward a criminal case to the court, or to submit a proposal to a court offering adjudication through simplified procedure according to this law;

2.18. to supervise and check inquiry and investigation process wholly or partially, take a case file when necessary to review, and to demand the head of the investigation organization to correct violations found during the supervision and to ensure that such violations are corrected;

2.19. to lodge a lawful complaint against actions of the advocate participating in certain criminal proceedings;

2.20. to request any organization or official to provide the necessary information, study, or documents, to be introduced with them on the spot, or to request them to issue a professional opinion or professional conclusion, and to store the case file in the archives;

2.21. to oversee the investigative operations;

2.22. to execute prosecutor's supervision;

2.23. to take preventive measures against illegal actions of prosecutors and investigators which actions may potentially affect participants during the criminal proceedings; and

2.24. other rights specified in this law.

3. The prosecutor shall exercise the rights and obligations stated in this law when taking part in the court trial as the public prosecutor.

4. The proposal of the investigator concerning an assignment ordered by a prosecutor shall be resolved by the upper-level prosecutor within three working days.

/This section was amended by the law dated January 10, 2020/

Article 4.2. Duties of the prosecutor

1. Prosecutor shall supervise how investigators and authorized officials are implementing this law during inquiry and investigation and shall annul any unlawful decisions according to grounds and rules stated in this law and ensure punishment for illegal actions.

2. The prosecutor shall have a duty to prove before the court whether a defendant is guilty of committing a crime.

Article 4.3. Prosecutor's supervision

1. During the inquiry and investigation, if the prosecutor finds that a testimony of the victim, witness, suspect, or accused, or expert opinion is questionable, or if the prosecutor considers that a particular investigative operation has not been carried out on grounds and/or by rules provided by law, then the prosecutor, on his/her own initiative or based on the complaint of a participant, may carry out supervisory operations by himself/herself by interrogating a witness, victim, suspect, or accused , re-appointing an expert witness to have its opinion, or by repeating an examination, search, or experiment, and may also review if an undercover investigative action was carried out on grounds and by rules provided by law or not.

CHAPTER FIVE

ADVOCATE

Article 5.1. Rights and duties of an advocate

1. The participation of an advocate shall be enabled in the criminal proceedings in order to protect the rights and legal interests of a suspect, accused, defendant, convict, victim, civil claimant, and civil respondent, and to guarantee their rights to legal assistance.

2. Advocate shall have the following rights:

2.1. to see suspect, accused, or defendant alone immediately in person, to be present at their interrogation, and to ask questions;

/This section was amended by the law dated October 18, 2019/

2.3. to be introduced with the expert opinion during the inquiry and investigation proceedings, to make copies at his own expenses, and to request for an additional or repeated expert analysis;

/This section was amended by the law dated October 18, 2019/

2.4. to submit items, objects, documents, information, and other evidence to the investigator and prosecutor, to have them authenticated and reflected in the case file, to make a request for an investigative operation, and participate according to rules stated by this law;

2.5. to be present during any investigative operations performed upon request of the suspect, accused, or defendant who is having service of the advocate, or upon request of the advocate itself, and to ask questions at any times, and make a request during such operations;

2.6. to be introduced with the records of investigative operations, judicial adversary proceeding, and trial records in which the advocate was present and to submit a request to make corrections;

2.7. to have explanations, documents, inquiries, and references issued by any individuals or legal entities if those are important for the case and consent is given by such individuals, and legal entities;

/This section was amended by the law dated October 18, 2019/

2.8. to submit application for the recusal against the investigator, prosecutor, translator, interpreter, judge, citizens' representative of the court, and secretary of a court trial;

2.9. to be introduced with all the materials of the case file and at own expenses to make copies of materials other than the state, corporate, and individual confidentiality upon closure of criminal inquiry or completion of the investigation;

2.10. to take part in court hearings;

2.11. to file complaint against actions and decisions made by the investigator, authorized officials, prosecutor, and court;

2.12. to be present when the suspect is arrested, accused, or defendant is detained, and to take part in resolving any other restraining measures;

2.13. to be present at trials of first, appellate, and cessation instance courts;

2.14. to submit a proposal on the compensation of losses and damages incurred to the participants during criminal proceedings due to illegal acts of investigators, prosecutors, and/or courts and a proposal on charging with responsibility for illegal acts of such persons;

2.15. other rights specified in this law.

3. An advocate shall arrive on time as informed by the court, prosecutor, and investigator and attend relevant criminal proceedings. If the advocate is not able to attend due to reasonable excuses, he/she should notify of it in advance.

4. When representing an individual or a legal entity, an advocate shall have a written request of the client as verification and shall notify about the representation to the relevant court, prosecutor, and investigator in writing.

/This section was amended by the law dated October 18, 2019/

5. An advocate should not withdraw from advocate service or legal counsel related contractual responsibilities without a reasonable excuse.

Article 5.2. Selecting an advocate

1. A suspect, accused, defendant, victim, civil claimant, and civil respondent shall select their advocates by themselves.

2. Legal representative, family member, or relative of a suspect, accused, defendant, victim, civil claimant, and civil respondent may select an advocate for them with the consent or request of such participants.

3. When providing a suspect, accused, defendant, victim, civil claimant, or civil respondent with the opportunity to select his/her advocate, a judge, prosecutor, and an investigator should not demand or coerce them to select a certain advocate.

4. If suspect, accused, defendant, victim, civil claimant, or civil respondent refused from his/her advocate, an opportunity to select another advocate shall be given.

5. Rules about guaranteeing the rights of indigent suspects and accused shall be regulated by law.

6. In the event that a suspect, accused, and defendant did not select an advocate within the given period, an appointed advocate shall participate in the proceedings.

7. If it is found that an advocate selected by a suspect, accused, or a victim is unavailable to arrive in a certain criminal proceeding without providing a reasonable excuse and it would obstruct the proceeding, the court, prosecutor, and investigator may decide to involve an appointed advocate in the court hearing to be held during the investigative operation, and/or investigation.

Article 5.3. Mandatory involvement of advocate

1. It shall be prohibited to proceed without a defense advocate if the following suspect, accused, or defendant are party to such proceeding:

1.1. who are unable to exercise their right to self-representation, or right to legal counsel due to a disability, mental disorder, or severe illness;

1.2. who are juvenile;

1.3. who do not know the Mongolian language, and script;

1.4. whom a life imprisonment penalty can be imposed;

1.5. other suspects, accused, or defendants who have contradicting interests in the same case in case one of the multiple suspects, accused, or defendants of such case has an advocate;

1.6 who have requested for defense advocate due to indigence.

2. If an advocate was not selected upon the request or acceptance of a suspect, accused, or defendant who are stated in section 1 of this Article or the participants failed to select an advocate according to section 2 of above Article 5.2, an appointed advocate shall be involved in criminal proceedings by the decision of the court, or prosecutor.

3. Except circumstances provided in section 1 of this Article, criminal proceedings may be carried out without the participation of an advocate if a suspect, accused, or defendant submitted a request for self-representation in writing.

Article 5.4. Guarantees for the advocates' operation

1. It shall be prohibited to testify, and/or carry out undercover investigative operation on an advocate, in relation to the criminal case in which the advocates is providing legal assistance.

2. Unless it is provided otherwise in law, a judge, prosecutor, or investigator shall be prohibited to request for the legal assistance agreement concluded by an advocate and the client.

/This section was amended by the law dated October 18, 2019/

CHAPTER SIX

ORGANIZATIONS AND OFFICIALS THAT ARE AUTHORIZED TO CARRY OUT INVESTIGATIVE OPERATION

Article 6.1 Organization that carries out investigative operations

1. Intelligence organization shall carry out inquiry and investigation of the following crimes:

1.1. crimes stated in Article 14.5 /Obstructing citizen's right to vote, and an election committee operation/, 14.6 /Multiple voting in the same election or national referendum/, Article 14.7 /Illegal interference in an election or national referendum, or fraudulent tabulation of the voting result/, Article 14.8 /Dissemination of apparently false information during an election/, Article 14.9 /Plotting illegal election/, Article 19.1 /Treason/, Article 19.2 /Illegal acquisition and obstructing of state power/, Article 19.3 /Attacking or killing a high-ranking state official/, Article 19.4 /Illegal collaboration with a foreign intelligence service, organization, or citizen/, Article 19.5 /Organizing an armed riot/, Article 19.6 /Sabotage/, Article 19.7 /Preparing for sabotage/, Article 19.8 /Illegal extremist activity/, Article 19.9 /Violation of the National Solidarity/, Article 19.10 /Espionage/, Article 19.11 /Illegal acquisition of state secret/, Article 19.12 /Disclosure of state secret/, Article 19.13 /Loosing state secret/, Article 19.14 /Illegal crossing the border of Mongolia/, Article 20.1 /Intentional false report of terrorist act/, Article 20.2 /Provoking, publicly justifying and stimulating terrorist activities/, Article 21.13 /Violation of Law on Undercover Operation/, section 3 of Article 27.7 /Violating of aviation safety/, Article 29.1 /Planning, preparing for, or provoking, and commencing tyranny or war/, Article 29.3 /Processing, producing, accumulating, acquisition, and sales of weapon of mass destruction/, Article 29.5 /Genocide/, Article 29.6 /Use of mercenaries/, Article 29.7 /Attack against persons enjoying international protection/, Article 29.8 /Committing terrorist act/, Article 29.9 /Preparation for terrorism/, Article 29.10 /Terrorism financing/, and Article 29.11/Financing proliferation of weapons of mass destruction/ of the Criminal Code;

/This section was amended by the law dated October 10, 2019/

/This section was amended by the law dated December 20, 2019/

/This section was amended by the law dated May 01, 2020/

1.2. crimes stated in Article 13.1 /Human trafficking/, Article 18.2 /Artificially influence on national currency or foreign currency rate/, Article 18.5 /Illegal transportation of goods across the state border/ 18.6 /Money laundering/, and section 3.3 of Article 20.7 of the Criminal Code in case the Intelligence organization detected such crimes by itself.

/This section was amended by the law dated January10, 2020/

2. Anti-corruption organization shall carry out inquiry and investigation of the following crimes:

2.1. crimes stated in Article 22.1 /Abusive exercise of power, and official position/, 22.3 /Abuse of power by an officer of a foreign state organization or international organization/, Article 22.4 /Accepting a bribe/, Article 22.5 /Offering a bribe/, Article 22.6 /Bribing an officer of a foreign state organization or an international organization/, Article 22.7 /Illegal expenditure, or loss of state reserve/, Article 22.8 /Misuse of budget funds/, Article 22.9 /Misuse of non-budgetary state properties/, Article 22.10 /Unjustified enrichment/, Article 22.11/Arbitrariness/, Article 22.12 /Abuse of the power of a legal entity/ of the Criminal Code;

2.2. Crime stated in Article 18.6 /Money laundering/ in case such crime is detected during the inquiry and investigation of corruption crimes included in Chapter 22 of the Criminal Code.

3. Police organization shall carry out the inquiry and investigation of crimes other than those specified in section1 and 2 of this Article.

4. Prosecutor shall determine the jurisdiction of inquiry and investigation of crimes committed by officers of intelligence, police, and anti-corruption organizations.

Article 6.2. Investigator

1. Investigator shall carry out investigative operations on crimes during the inquiry and investigation stages if such crimes are within the investigator's competence as provided in law or if the prosecutor ordered to carry out investigative operation on certain criminal cases under investigator's jurisdiction.

2. Investigator shall have the following rights:

2.1. Open an inquiry case;

2.2. Submit his/her proposal for accusation to relevant prosecutor;

2.3. Arrest the suspect according to this law;

2.4. unless it is an urgent circumstance, to submit a proposal to the prosecutors on carrying out investigative operation that should be initiated by the prosecutor's approval;

2.5. to carry out investigative operations on his/her own to detect crimes, to detect, identify individuals or legal entities that perpetrated such crimes except for circumstances in which investigation should legally be carried out upon the approval of the prosecutor;

2.6. Summon witness, victim, civil claimant, civil respondent, expert witness, and defendant;

2.7. to appoint expert witness to have its opinion issued;

2.8. to submit proposal to the prosecutor on taking restraining measures which an investigator may take according to law, and terminating such restraining measures, or proposal on taking restraining measures which should be taken upon decision of a prosecutor or court, an terminating or changing such measures;

2.9. to submit proposal to a prosecutor for an approval of arresting a suspect;

2.10. to resolve requests submitted by participants;

2.11. to carry out investigative operations according to the order of a prosecutor, or to submit proposal within 3 working days to the upper-level prosecutor of relevant prosecutor's office in case the investigator does not agree with the order of such prosecutor. However, aforementioned proposal of the investigator to the upper-level prosecutor shall be submitted only once.

/This section was amended by the law dated January 10, 2020/

2.12. to submit proposal to the upper-level prosecutor in writing within 5 days if the investigator does not agree with a prosecutor's decision on closing an inquiry case, repealing a criminal case, and annulling the order of accusation;

2.13. to write an assignment of an undercover investigative operation upon approval of a prosecutor to the authorized organization, and to have such operation is carried out;

2.14 to write an assignment for carrying out certain investigative operation or searching for an alleged criminal when such actions are necessary to be held on the territory that is out of the investigator's jurisdiction, and the investigation organization that received such assignment shall carry out

operations within the period stated in the assignment and deliver the reply of such assignment together with collected evidence;

/This section was amended by the law dated January 10, 2020/

2.15. other rights specified in this law.

3. In case the search for a suspect, accused, defendant and/or investigation are necessary to be carried out by an organizations out of the proper jurisdiction, the investigator shall deliver a proposal to the prosecutor about the necessity. When such investigation organization receives the assignment from the prosecutor it shall carry out operations within the period stated in the assignment and deliver the reply of such assignment together with collected evidence.

4. Investigator shall carry out investigative operations stated in this law to establish the facts of criminal cases, detect crimes, and identify the persons and legal entities that perpetrated the crime.

5. The investigator who acquired special expertise may exercise the rights of an expert witness stated in this law and may issue conclusion about expert analysis.

6. The investigator who exercises the rights specified in section 5 of this Article, may also cooperate with an appointed expert witness in expertise.

7. Investigator may use coercive measures during the inquiry and investigation stage based on rules and grounds set forth by law.

8. Section 2.14 of this Article shall not be applicable to assignments that are given between the investigation organizations referred in sections 1, 2, 3, and 4 of Article 6.1 of this Code.

/This section was amended by the law dated January 10, 2020/

Article 6.3. Power of the head of an investigation unit

1. Head of an investigation unit shall exercise the following rights during the inquiry and investigation:

1.1. to make prompt coordination of crime detection and identifying the persons who committed them by way of providing organizational and professional guidance on investigative operations;

1.2. to give the assignment of investigative operations to one or several investigators;

1.3. to transfer a criminal case from one investigator to another by delivering a notification to the prosecutor, when it is considered necessary;

1.4. to review materials of a criminal case on its own, to take part in investigative operations, or to give a written instruction to an investigator as support and to ensure the implementation of such instruction;

1.5. to exercise powers of an investigator when necessary;

1.16. to take preventive measures against illegal actions of investigators which actions may potentially affect participants during the criminal proceedings.

CHAPTER SEVEN

ACCUSED

Article 7.1. Accused

1. An accused is a suspect to whom a order of accusation is introduced.

2. Rights and duties specified in this chapter shall be equally applicable to defendant of criminal proceedings.

Article 7.2. Prohibiting the presumption of guilt

1. A judge, prosecutor, advocate, investigator, authorized official, and expert witness should not presume that any evidence indisputably proves or negates the guilt of an accused.

2. The court shall be prohibited to tentatively express an opinion and/or position on any decision about to be made by such court or on the guilt of an accused; and a court, prosecutor, advocate, investigator, expert witness, and a specialist shall also be prohibited to publicly announce an accused as guilty of committing any crime before the legally binding court decision is made.

Article 7.3. Right to know accusation against oneself

1. An accused shall have the right to know for what offense he/she is accused of.

2. An accused shall have the right to be introduced with the decision about considering him/her as accused and/or decision about taking restraining measures on him/her.

3. An accused shall have the right to give a verbal or written explanation about the criminal penalty brought against him/her.

4. Accused shall have the right to present evidence and to submit a request about examination of evidence.

Article 7.4. Interrogation and right to remain silent

1. An accused shall have the right to be interrogated in his/her mother language or a language with good command of, to get assistance from translator, and interpreter, and/or to refuse from interrogation.

2. An accused shall not have obligation to give testimony against himself/herself, or to prove he/she is not guilty of a crime, or to prove facts of the crime.

3. It shall be prohibited to obtain a forced confession from an accused.

Article 7.5. Right to be informed

1. An accused shall have the right to obtain information about criminal proceedings from the court, prosecutor, or investigator provided that such information is accessible for the accused under this law.

2. If an accused does not know Mongolian language and script, the accused shall have right to obtain the information stated in section 1 of this Article in his/her mother language or language that he/she has a good command of, and if the accused has hearing, visual, and/or speaking disability, he/she shall have right to obtain such information through assistance of translator or interpreter using sign language, gesture, and/or special signs.

3. An accused shall have the right to be present in the investigative operation which is performed upon his/her own request, to be introduced with the note of the operation, and to request to make corrections in the note of such operation.

4. An accused shall have the right to be introduced with the order of appointing an expert witness, and expert opinion, and to be introduced with the case file after the completion of the investigation.

Article 7.6. Relationship with an advocate

1. Accused shall have the right to meet advocate in private and to communicate with advocate free of hindrance verbally or in writing.

2. The room where an advocate meets the accused in detention, should ensure that the privacy of their communication would not be hindered.

3. During criminal proceedings, the court, prosecutor, and investigator shall provide the accused with the opportunity to exercise the right to self-representation, right to legal assistance, and right to legal aid.

Article 7.7. Right to lodge complaint and request

1. Arrested suspect, and detained accused or defendant shall have the right to complain to the court concerning whether the detention or arrest was legal, and request the release from the detention when the detention or arrest is found to illegal.

2. Accused shall have the right to demand to forward the case of conviction to the court for adjudication, and to complain about the proceeding.

3. Accused shall have the right to complain about the actions taken and decisions made by the court, prosecutor, advocate, and investigator.

4. Accused shall also have the right to be introduced with any complaint and objection against the court decision submitted by other persons, and provide explanations about such complaint and/or objection.

5. to submit application for the recusal against the investigator, prosecutor, translator, interpreter, judge, citizens' representative of the court, and secretary of a court trial.

6. to submit a complaint about the compensation of losses and damages incurred to the participants during criminal proceedings due to illegal acts of investigators, prosecutors, and/or courts and a complaint about charging with responsibility for illegal acts of such persons.

Article 7.8. Participating in the trial

1. Accused shall participate in the trial of the court of first instance in person.

2. In case an accused requests to take part in a judicial adversary proceeding, the court shall decide based on examination of proposals of the parties.

3. The participation of the accused in adversary proceeding and trial from a different location through the use of audio-video equipment can be allowed based on grounds stated in this law.

Article 7.9. Duties of accused

1. Accused shall bear the following duties:

1.1. to be present on time in response to summoning order of court and prosecutor;

1.2. to obey the trial rules;

1.3. to implement the legally made decisions, demands of the court, prosecutor, and investigator;

1.4. to refrain from intentionally obstructing the criminal proceedings;

1.5. to refrain from influencing any participant or Other participant.

2. Accused's failure to perform duties stated in section 1 of this Article shall serve as grounds for the application of coercive measures and for imposing penalties or changing the restraining measures taken for him/her.

CHAPTER EIGHT

VICTIM, CIVIL CLAIMANT, AND CIVIL RESPONDENT

Article 8.1. Victim

1. A victim shall be an individual and/or legal entity that has suffered damage to their life, health, other rights, and freedoms, or physical or non-physical damage caused to them due to a crime.

2. The decision on recognizing a person to be a victim shall be formalized by the decision of the investigator or prosecutor, or the court.

3. Victim may exercise his/her rights stated in this law through legal representation, and advocate.

Article 8.2. Rights of victim

1. In the criminal proceedings, victim shall have the following rights:

1.1. right to self-representation, to have advocate service, and legal assistance;

1.2. to present items, objects, documents, information, and other evidence necessary for establishing facts of the case, and get them authenticated and reflected in the case file;

1.3. to submit a request for carry out of certain investigative action, and to have evidence examined;

1.4. Participate in court hearing, preliminary hearing, and court trial;

1.5. to ask questions from defendant, witness, and expert witness with permission of the presiding judge;

1.6. to complain against the actions and decisions of an court, prosecutor, and investigator in accordance with rules set forth in this law;

1.7. Make statement in his/her mother tongue or in a language well known to him/her and to be assisted by translator or interpreter;

1.8. to be introduced with all the materials of the case relevant to him/her after the completion of the investigation, and to submit request for additional investigative actions;

1.9. to claim for the damage occurred and loss incurred due to crime, and to submit a request for compensation;

1.10. to have a copy of court decision on acquittal or sentencing;

1.11. to submit application for the recusal of the judge, prosecutor, investigator, interpreter, expert witness, specialist, and secretary of a court trial.

1.12. to submit a complaint about the compensation of losses and damages incurred to the participants during criminal proceedings due to illegal acts of investigators, prosecutors, and/or courts and a complaint about charging with responsibility for illegal acts of such persons.

1.13. to be introduced with sections of order of appointing expert witness, and expert opinion which sections are relevant to him/her.

/This section was amended by the law dated January 10, 2020/

1.14. right to refuse to testify against family members, parents, and children;

/This section was amended by the law dated January 10, 2020/

1.15. other rights specified in this law.

/This section was amended by the law dated January 10, 2020/

2. In case the victim is deceased, or legally incapable, or not able to defend his/her rights and legal interests, the rights stated in this Article shall be exercised by his/her legal representative.

3. Victim shall bear the following duties:

3.1. to be present on time in response to summoning order of court and prosecutor;

3.2. to testify the truth of the criminal case;

3.3. to refrain from disclosure of information about the case which has become known to him/her;

3.4. to obey rules of criminal proceedings.

4. If a victim obstructs criminal proceedings, or gives false testimony, the victims shall be liable as provided by the Law on Infringement, or the Criminal Code of Mongolia.

/This section was amended by the law dated January 10, 2020/

Article 8.3. Right to be informed

1. In response to request of victim, his/her legal representative, or advocate, the prosecutor shall notify about the following actions before three days to the commencement of such actions:

1.1. Court hearing on modifying pre-trial detention and other restraining measures taken for the accused;

1.2. Transferring inquiry, and investigation to the proper jurisdiction;

1.3. Court trial on resolving early release of convict from imprisonment.

2. In response to request made by the victim, his/her legal representative, and advocate, the investigator shall inform of the restraining measures taken on the accused, any modification, termination of such measures, opening and closure of the inquiry case, suspension, and restoring of the investigation, transferring criminal case to the prosecutor.

3. Prosecutor, and investigator shall not provide any information to the victim, his/her legal representative, and advocate if such information is related to state, corporate, and personal confidentiality.

4. If there is a reasonable suspicion about the threat against the safety of victim, witness, suspect, and accused, or about the obstruction of the investigative operation, then the prosecutor, and investigator may refuse to disclose other information as confidential in addition to the information set forth in section 3 of this Article.

Article 8.4. Right to protection

1. Victim, his/her legal representative, advocate or persons associated with the victim can submit request to the court, prosecutor, and investigator for receiving assistance of safeguarding their security as stated in the Law on Protection of Witness and Victim, and this law.

Article 8.5. Civil claimant

1. Civil claimant shall be an individual or legal entity that is claiming for compensation or restoration of physical or non-material damage caused by a crime.

2. If an individual and/or legal entity that has suffered physical or non-physical damage caused to them due to a crime shall have the right to submit a civil claim against the suspect, accused, and defendant of the crime, or the person who is responsible for such physical or non-physical damage caused by them, and the court shall resolve this civil claim together with the criminal case.

3. The investigator, prosecutor, court by issuing order, or a judge by issuing directive, shall formally recognize a civil claimant.

A civil claim submitted in connection to criminal case shall be exempt from paying the stamp duty.

5. Rights stated in sections 1.1, 1.2, 1.4, 1.5, 1.6, 1.8, 1.10, and 1.11 of Article 8.2 of this law, and duties stated in this Chapter shall be equally applicable to a civil claimant.

6. A civil claim submitted in connection to the damage caused by a crime shall not be resolved by a civil court according to civil procedural rules before the relevant criminal case is adjudicated.

7. Only referring to the civil claim related parts of first instance or appellate instance criminal court decisions, a civil claimant can file a motion under the appellate instance and cessation instance rules.

8. If the grounds specified in section 2 of this Article are not satisfied, the relevant civil claim of claiming individual and/or legal entity can be rejected by well-reasoned formal decision, and then the procedure for appealing against such decision should be explained to the civil claimant.

9. Refusal to recognize as a civil claimant at the inquiry and investigation stage shall not become the ground for restricting the right to re-apply at the stage of court proceedings for the same claim.

10. A civil claimant shall have the right to withdraw his/her civil claim.

11. An application to withdraw his/her civil claim should be reflected in the records of inquiry, or investigation, or trial records, and the application should be attached in the case file if it was submitted in writing.

12. An application to withdraw a civil claim shall be received by the investigator or prosecutor at any stage of the criminal proceedings, and an order to this effect shall be issued.

13. During the adjudication of criminal case by a court, an application to withdraw the claim can be made before the court enters the deliberation room and the application shall be agreed by the court.

14. If the investigator, prosecutor or court considers that the withdrawal of the civil claim violates the law or the rights and legal interest of any person, such investigator, prosecutor or court may reject the relevant application of withdrawal and make well-reasoned decision to that effect.

Article 8.6. Civil respondent

1. Parent, guardian, trustee, and other individual or legal entity that should be legally responsible for the physical and non-physical damage caused by a juvenile defendant can be involved in criminal proceedings as a civil respondent.

2. When involving as a civil respondent, the investigator, prosecutor, and court shall issue their order, and a judge shall issue a directive.

3. Civil respondents and their representatives shall have the following rights:

3.1. to provide explanation about the civil claim;

3.2. to provide evidence, and to make request;

3.3. rights stated in sections 1.4, 1.5, 1.6, 1.7, 1.8, 1.10, 1.11, and 1.12 of Article 8.2 of this law.

4. A civil respondents and their representatives shall bear the duties stated in this Chapter.

5. Rules stated in section 4 of Article 8.5 of this law shall be equally applicable to a civil respondent.

CHAPTER NINE

OTHER PARTICIPANTS

Article 9.1. Expert witness

1. The prosecutor and investigator on their own initiative or if they consider that request from participants is reasonable, shall appoint expert witness to clarify issues that inevitably require special expertise for resolving the criminal case, or to valuate items and properties.

2. Based on the expertise conducted, an expert witness shall issue an expert opinion within scope of the specialized field on his/her own name, and shall be responsible for the result of the expert opinion.

3. Decision to appoint an expert witness shall include the rationale for expertise, name of expert organization and expert witness, questions asked from the expert, period given for expertise, and information about the physical evidence transferred to the expert.

4. When conducting expertise and producing expert opinion, an expert shall follow the rules stated in this law and the Law on Forensics.

5. Expert shall be present as summoned by the investigator, prosecutor, and court in relation to his/her expert opinion and give testimony.

Article 9.2. Rights and duties of expert witness

2. An expert witness shall have the following rights:

1.1. to be introduced with the part of the materials of the case file provided that such part is relevant to the examination;

1.2. to participate in the investigative operation upon permission of the prosecutor, and investigator, to ask questions from participants in connection to the expertise, to submit proposal to amend the records of investigative operation;

1.3. to request for additional pieces of evidence which is necessary to produce expert opinion, to have them provided by the court, prosecutor, and investigator;

1.4. to remove oneself from the case and to refuse from producing expert opinion in case the question of expertise is not applicable to or out of the scope of such expert witness's specialized field, or there is a potential conflict of interest with the individual or organization associated with the evidence to be assessed;

1.5. to have remunerations and reimbursement for the costs of the expertise If appointed as an expert witness aside from the forensics or professional organization;

1.6. to submit a request for protection of one's security to the court, prosecutor, and investigator.

2. An expert witness shall conduct the expertise using his/her specialized knowledge by examining provided evidence fully and objectively from all available aspects, and shall issue an expert opinion in writing based on scientific grounds within the given period.

3. If an expert fails to be present on time as summoned by the court or prosecutor without reasonable excuse, the expert witness shall be brought coercively according to this law based on the court decision.

4. If an expert intentionally failed to answer the question for expertise, or exceeded the given period of expertise without reasonable reason, or produced false opinion, then the expert shall be responsible as stated in law.

Article 9.3. The specialist

1. In case it is necessary to have assistance of specialized person in identifying, authenticating, and protecting trace or evidence of a crime, and in the application and operating of technical devices and equipment, or in case it is necessary to secure explosives, chemicals, and other objects that can potentially harm human life, health, or the environment, or necessary to have suggestion of specialized person during the investigative operations or court trials, an individual with no private interest in the criminal matter who has specialized knowledge and expertise can be involved by decision of the court, prosecutor, or investigator.

2. The specialist shall have the following rights:

2.1. to ask questions in relation to criminal proceeding activities when involved in;

2.2. to operate technical devices and equipment;

2.6. to be introduced with the records of investigative operations, and trial recordsin which the specialist was involved, and to submit a request to make corrections;

2.4. to have remunerations and reimbursement of costs for the specialist's work (this section shall not be applicable to the specialist who was involved under one's official duty);

2.5. to submit request for protection measures to be taken for oneself or others safety.

3. The Specialist shall bear the following duties:

3.1. to be present as summoned by the court, prosecutor, and investigator, and give testimony in connection to the investigative operation which the specialist was involved;

3.2. to answer questions of participants and give explanations in connection to the operation which the specialist was involved;

3.3. to refrain from disclosure of confidentiality of operation which the specialist was involved;

Article 9.4. Translator, interpreter

1. In circumstances stated in section 2 of Article 1.3 of this law, the court, prosecutor, and investigator shall appoint a an individual who has knowledge and skills of translation and interpretation as a translator or interpreter.

2. Translator and interpreter shall have the following rights:

2.1. to be introduced with the records of investigative operations, and trial records in which the specialist was involved, and to submit a request to make corrections;

2.2. to refuse from appointment if his/her interpretation and translation skill is insufficient;

2.3. to have remunerations and reimbursement of costs for their work;

3. Translator and interpreter shall bear the following duties:

3.1. to be present on time as summoned by the court, prosecutor, and investigator, and to make translation or interpretation;

3.2. to translate and interpret correctly;

3.3. to sign in the relevant record or court record by verifying that the translation of documents, or translation or interpretation was made correctly during the investigative operation or court trial by such translator or interpreter;

3.4. to refrain from disclosing any state, corporate, and personal confidentiality, and evidence and information that became know during translation and interpretation;

3.5. to obey the rules of criminal investigation proceedings, and the court trial rules;

4. In case a translator or interpreter fails to fulfill his/her duty without reasonable ground, or intentionally violates their duties, such a translator or interpreter shall be held responsible according to law.

5. Regulations of this Article shall be equally applicable to a sign language interpreter assisting the persons with speaking and hearing disabilities.

Article 9.5. Legal representative

1. The investigator, and prosecutor shall determine the following individual as a legal representative:

1.1. Biological or step parents, guardians, and trustees of suspect, accused, and defendants who are juvenile or victims under 18 years old;

1.2. An authorized person to represent or legal representative of a victim or legal entity;

1.3. Biological or step parents, guardians, and trustees of a victim in case the victim is deceased, or unable to express his/her intended interests due to mental or health reasons.

2. In case there is no legal representative for the individual under under 18 years old specified in section 1.1 of this Article or the legal representative has conflict of interest, then an authorized person of government organization responsible for children's issues may be appointed as a legal representative.

3. Any disputes related to determining a legal representative shall be resolved by court or prosecutor.

4. During the criminal proceedings, a legal representative shall exercise rights and bear duties of the participant that is being represented.

Article 9.6. The witness

1. The witness shall be an individual who knows certain circumstance that is important for the resolution of the criminal case.

2. Witness shall have obligation to be present as summoned by the court, and prosecutor and give true and correct testimony regarding the case.

3. If a witness fails to be present without reasonable excuse, the witness shall be coercively brought by the court decision.

4. If a witness obstructs criminal proceedings, or gives false testimony, the witness shall be liable as provided by the Law on Infringement, or the Criminal Code of Mongolia.

/This section was amended by the law dated January 10, 2020/

5. A witness shall have the right to refuse to testify against oneself or family members, parents, and children.

6. If a witness considers that testimony can serve against him/herself, or testifying him/her as guilty of committing a crime, then the witness shall have the right to get this reflected in the recording, to refuse from giving testimony, and to give testimony with presence of an advocate.

7. Witness shall have the right to get reimbursed for the cost for being present for testimony and have oneself protected as stated in this law.

8. Before the testimony, the court, prosecutor, and investigator shall explain the rights and duties of witness specified in this law to the witness.

Article 9.7. Third party witness

1. The prosecutor and investigator shall involve no less than two third party witnesses in order to verify the process and result of investigative operations stated in this law.

2. Third party witness shall be an individual who has no personal interests in the case.

3. A third party witness shall have the right to submit a complaint about the investigative action where he/she was involved and to be introduced with the recordings of such actions, and to submit a proposal to make corrections in such recordings.

4. A third party witness shall be have obligation to be present as summoned by the court, prosecutor, and investigator, to follow the rules of investigative proceedings, and to keep the confidentiality.

5. In case any third party witness is unavailable, the process and result of the investigative action shall be authenticated as an audio-video recording.

CHAPTER TEN

GROUNDS FOR PRECLUDING THE PARTICIPATION IN THE CRIMINAL PROCEDURE

Article 10.1. Grounds for disqualifying judge from criminal proceedings

1. A judge shall be disqualified to participate the criminal procedure if one of the following grounds is satisfied:

1.1. if the judge is taking part or probably be participating in the criminal procedure as a participant;

1.2. if the prosecutor, investigator, advocate, or participant of the case is the judge's family member, close relative, or relative;

1.3. if the judge previously participated in the same case as the prosecutor, investigator, participant, other participant, judicial assistant, or secretary of a court;

1.4. if the judge himself/herself considers that there is another ground of direct or indirect personal interest in the case associated to such judge.

2. Judges who are family members, close relatives, or relatives shall not be in composition of the judicial panel adjudicating the criminal case.

3. A family member, close relative, or a relative of a judge who was participated in the judicial panel of the first instance adjudication of a case shall not participate in the judicial panel of appellate or cessation instance adjudication of the same case.

4. Upon knowing the grounds stated in sections 1.1, 1.2, and 1.3 of this Article, a judge should disqualify himself/herself from the criminal procedure of the case, and if the judge fails to perform this duty, the decision made by such judge shall be annulled according to ground and rules set forth in law.

Article 10.2. Grounds for the debarment of a judge from criminal proceedings upon former participation

1. The judge who participated at the first, appellate, or cessation instance adjudication of a case shall not participate in the adjudication of the same case at other instances.

2. A judge who made a decision to recognize an individual as a cooperating defendant under Article 13.5 of this law, shall not participate the adjudication of crimes committed by the same individual.

/This section was amended by the law dated January 10, 2020/

3. A judge who is a family member, close relative, or relative of the judge stated in section 1 of this Article shall not participate in adjudicating the same case at other instances.

Article 10.3. Challenging a judge

1. The prosecutor, and a participant may submit a peremptory challenge to a judge of the judicial panel on the grounds stated in articles 10.1, and 10.2 of this law.

2. The challenge to a judge shall be resolved prior to the commencement of the trial. In case the ground for the challenge to a judge is discovered after commencement of the trial, a request for recusal can be submitted before the court enters the deliberation room.

Article 10.4. Resolving a challenge to judge

1. If a judge adjudicates the case on his/her own is challenged on the grounds stated in articles 10.1, and 10.2 of this law, the trial shall be postponed and the challenge shall be introduced to and resolved by the Chief Justice of the relevant court.

2. The peremptory challenge to the chief justice on the grounds stated in articles 10.1, and 10.2 of this law shall be presented to and resolved by the meeting of all judges of the relevant court.

3. The peremptory challenge to a judge of a judicial panel made on the grounds stated in articles 10.1, and 10.2 of this law shall be resolved by the same judicial panel in the deliberation room, and if the votes are equal, the judge shall be considered as disqualified.

4. The peremptory challenge to a judge made according to section 3 of this Article shall be resolved by the same judicial panel without the presence of the challenged judge, however, the judge who was challenged may give explanation to the judicial panel.

5. If the majority of judges of a judicial panel are challenged on the grounds stated in articles 10.1, and 10.2 of this law, the challenge shall be introduced by presiding judge to the Chief Justice of the relevant court and resolved by such Chief Justice.

6. In case the Chief Justice is in the judicial panel which is challenged as stated in section 5 of this Article, or the peremptory challenge was made to all judges of the judicial panel, this challenge shall be introduced to and resolved by the meeting of all judges of the relevant court.

7. During the resolution of the challenge to a Chief Justice, the Chief Justice may give explanation to the meeting of all judges, but shall not exercise the right to vote.

8. The decision made according to sections 1, 2, 3, 5, and 6 of this Article shall be final.

9. For the cessation instance court, the challenge stated in sections 1, 2, 5, and 6 of this Article shall be resolved by the meeting of the Criminal Chamber of the Supreme Court.

Article 10.5. Recusal of citizens' representative of the court

1. A motion for the recusal of the prosecutor, and participating citizens' representative of the court can be filed on grounds set forth in Article 10.1 of this law.

2. The motion for the recusal of a citizens' representative of the court shall be decided by judicial panel in the deliberation room. If considers as necessary, the judicial panel may hear the explanation of the citizens' representative of the court who is being recused.

Article 10.6. Recusal of a secretary of a court

1. Regulation set forth in sections 10.1, 10.2, and 10.3 of this law shall be equally applicable to secretary of a court, but the fact that the secretary participated in the same adjudication as a secretary of a court shall not serve as a ground for recusal.

2. Motion for the recusal of a secretary of a court shall be decided by the judge or judicial panel adjudicating the case and the decision shall be final.

Article 10.3. Recusal of a prosecutor

1. The recusal of a prosecutor shall be regulated by a rules set forth in articles 10.1, and 10.3 of this law.

2. A participant may submit a motion for recusal of a prosecutor from a criminal procedure on the grounds stated in section 1 of this Article.

3. A motion for recusal of a prosecutor who is participating in a court hearing, preliminary hearing, and court trial shall be resolved by the court adjudicating the case.

/This section was amended by the law dated October 18, 2019/

4. Motion for recusal of a prosecutor filed during the inquiry and investigation process shall be resolved by upper-level prosecutor.

5. If a ground for recusal of a prosecutor specified in this law is satisfied, or the court made its decision to recuse the prosecutor according to section 3 of this Article, then upper-level prosecutor shall appoint another prosecutor.

6. The decision made according to sections 3, 4, and 5 of this Article shall be final.

Article 10.8. Preclusion of the participation of an advocate

1. An advocate shall not participate the criminal procedure for the following circumstances:

1.1. The decision that suspended or terminated his/her right to represent at the court is remaining valid;

1.2. If previously participated in the same criminal proceedings as a judge, prosecutor, investigator, witness, or expert witness;

1.3. If his/her family member, close relative, or relative is participating as an advocate of the other participant who has conflicting interest in the same case.

2. Same advocate may not serve for several suspects, accused, defendants, or legal entities that have conflicting interests in the same case.

3. Unless an advocate recuses himself/herself on the ground stated in section 1 of this Article, the court shall resolve the motion for recusal of such an advocate upon the request of suspect, accused, defendant, another advocate, or prosecutor who is participating in the same proceeding.

Article 10.9. Preclusion of the participation of an investigator

1. In case one of the grounds stated in Article 10.1 of this law is satisfied, an investigator shall not participate in the inquiry and investigation of a crime.

2. A participants may submit a request about preclusion of the participation of an investigator to the prosecutor supervising the case on grounds stated in section 1 of this Article.

3. The prosecutor shall resolve the preclusion of the participation of an investigator either at his/her own discretion or in base upon the request of a participant, and the prosecutor's decision shall be final.

Article 10.10. Preclusion of the participation of a translator or interpreter

1. In case one of the grounds stated in Article 10.1 of this law or other circumstances where a translator or interpreter should not make translation or interpretation, the participation of such translator or interpreter shall not be allowed in criminal procedure.

2. A participants may submit a request about preclusion of the participation of a translator or interpreter to the prosecutor on grounds stated in section 1 of this Article.

3. Previous participation in the same case as a translator or interpreter shall not be a ground for preclusion of their participation.

4. A participant shall file its motion for recusal of a translator or interpreter to the investigator during the inquiry and investigation of criminal case, or to the prosecutor if the investigator disagrees the motion.

5. If a motion for the recusal of a translator or interpreter is filed during the court trial, the judge or the judicial panel considering the case shall resolve.

6. Despite any ground to recuse a translator or interpreter, application of this Article can be dismissed if the translator or interpreter, the prosecutor, investigator, and participants of the criminal proceeding accepted the participation of such translator or interpreter. However, application of this section of this Article shall not serve as the ground for releasing the translator or interpreter from criminal obligation.

7.The process of criminal proceedings in which the translator or interpreter participated according to section 6 of this Article shall be written as a record, and authenticated as an audio-video recording.

Article 10.11. Preclusion of the participation of an expert witness

1. An expert witness shall not participate the criminal procedure for the following circumstances:

1.1. If the expert witness participated in the proceedings of the same case as an investigator, prosecutor, judge, citizens' representative of the court, participant, and/or other participant;

1.2. If the expert witness is a family member, close relative, or relative of any participant of the criminal proceeding;

1.3. The expert witness is under the influencing power of any participant in terms of official position and other aspects;

1.4. The expert witness has a personal relationship with a participant;

1.5. If the question of expertise is not applicable to or out of the scope of such expert witness's specialized field, or the question cannot be answered by using scientific methods and tools.

2. In case one of the grounds stated in section 1 of this Article is satisfied, the expert witness shall recuse oneself from the case, refuse from producing expert opinion and shall Immediately inform of it to the court, prosecutor, or investigator who appointed such expert witness.

3. If the court, prosecutor, or investigator considers that expert's refusal from expertise is reasonably grounded, such court, prosecutor, or investigator shall appoint another expert witness.

4. A participant shall file its motion for recusal of an expert witness to the investigator during the inquiry and investigation of criminal case, or to the prosecutor if the investigator disagrees the motion.

Article 10.12. Sequence of resolving motion for recusals and challenges

1. In case motions for recusals or challenges related to several persons are simultaneously filed during a criminal proceeding, the challenge to a judge or judicial panel shall be resolved at first.

2. After resolving challenge to a judge or judicial panel, motions for recusal of the prosecutor, advocate, and other participants shall be resolved.

III PART

COMMON RULES OF CRIMINAL PROCEDURE

CHAPTER ELEVEN

PERIOD, COSTS, AND DOCUMENTS OF CRIMINAL PROCEDURE

Article 11.1. Calculation of period

1. Period of time stated in this law shall be calculated by hours, days, months, and years.

2. In calculating a time period, the minute, hour and day at which such time period starts shall not be counted.

3. In calculating a time period by hours, the time period shall end at the last minute of the last hour.

4. In calculating a time period by days the time period shall end at 24th hour of the last day.

5. In calculating a time period by months the time period shall end on the same day of the last month. If there is no corresponding day in the ending month, the term shall expire on the last day of the ending month.

6. In calculating a time period by years, the time period shall end on the same day of the same month of the following year. If the ending day of the time period is not a working day, the first subsequent working day of the ending time period shall be considered as the last day.

7. If a complaint or any other document is received by a post office or is officially submitted to the administration of an detention center by arrested, detained individual before the end of a time limit, the time period shall not be considered as expired.

Article 11.2. Extending a time period

1. A time limit stated in this law can be extended according to rules set by this Law.

Article 11.3. Restoration of expired time limit

1. If the failure of observing the time limit is reasonably excusable, then the court or prosecutor may decide to restore the expired time limit based upon the request of an interested person.

2. If a complaint to appellate instance court was submitted after the expiry of required time limit, the enforcement of the relevant court decision may be suspended until the restoration of the time limit is resolved upon the request of an interested person.

3. A decision of court or prosecutor on the refusal from restoration of expired time limit and suspension of the enforcement of relevant decision shall not be appealed.

Article 11.4. Costs of procedural activities

1. Costs of procedural activities shall consist of the following expenses:

1.1. Expenses payable to a victim, his/her legal representative, witness, third party witness, expert witness, translator, interpreter, and advocate;

1.2. Expenses incurred for storing, transferring, and examining physical evidence;

1.3. Expenses incurred for the search for suspect, accused, or defendant who fled from the inquiry, investigation, prosecution, or court;

1.4. Expenses incurred for coercively bringing a suspect, accused, or defendant, as well as expenses incurred due to postponing of court trial because of the non-appearance of a defendant without reasonable excuse;

1.5. Any other expenses incurred in direct connection to criminal proceedings.

2. The Government shall approve the regulation for calculation of costs of the criminal procedure.

Article 11.5. Reimbursement of the costs for witness, expert, specialist, translator, and interpreter

1. An individual who was summoned at the court as a witness, expert witness, specialist, translator, and interpreter shall have the right to be reimbursed for any cost associated with the summoning.

2. An expert witness, specialist, translator, and interpreter shall have the right to be remunerated.

3. Section 2 of this Article shall not be applicable to an expert witness, specialist, translator, and interpreters who participated in the criminal proceedings according to their official duty.

Article 11.4. The exaction of costs of the criminal procedure

1. If the court finds that a defendant is guilty, costs of the criminal procedure shall be exacted from the defendant based on supporting financial records.

2. In case several defendants are found guilty, costs of the criminal procedure stated in section 1 of this Article shall be exacted from defendants in proportion to the criminal participation and culpability of each defendant.

3. In case a defendant is found guilty but was discharged according to the Criminal Code, the court shall exact costs of the criminal procedure from the defendant.

4. If a criminal case is repealed as provided in section 1.1 of Article 1.5 of this Law, the order of accusation is annulled, the defendant was acquitted, or convicted individual or legal entity has been found

insolvent, they shall be exempted from exaction of costs of criminal procedure and such costs shall be paid by the state.

Article 11.7. The trial record

1. The process of court trail stated in this law shall be written by a secretary of a court as a trial record, and verified by audio or audio-video recording.

2. The trial record should include the place, date, time of commencement and completion of the trial, given and last names of judge, judges of judicial panel, participants, case number, personal identification of the defendant, and the whole trial process starting from the commencement to the completion of the trial.

3. If the presiding judge, or secretary of a court trial is not able to sign on the trial record for a reasonable excuse, a court clerk shall write relevant explanation and attach in the trial record.

4. This Article shall equally apply to both of a court hearing record and preliminary hearing record.

Article 11.8. Introducing with the trial record

1. After the court decision is read out, the trial record should be ready within 7 days signed by presiding judge and the secretary of a court, and shall be introduced to the prosecutor, and participants.

2. Participants, other participants, and prosecutor shall have the right to submit proposal or request to make correction in a trial record within 5 days after they are introduced with the trial record.

3. The court that received the proposal or request stated in section 2 of this Article shall resolve it within 3 days.

4. Where necessary, the person who have submitted the proposal or request about making correction in a trial record can be allowed to be present during the discussion of such proposal or request.

5. Upon the request of a participant, the audio, and audio-video recording of the trial shall be introduced.

6. This Article shall equally apply to both of a court hearing record and preliminary hearing record.

Article 11.9. Delivering document

1. Decisions of the court, prosecutor, and investigator, and other document to be delivered to a individuals and legal entities according to this law shall be delivered by administrative officers of the court, prosecutors offices, and organizations that carry out investigative operations to the recipient in person or through such recipient's postal address and shall verify the delivery.

2. If the recipient of the decision of the court, prosecutor, or investigator, or other document refused or avoided to receive, it shall be verified. Decisions made by the court and prosecutor shall be posted on the relevant organization's website within 3 days from approval.

3. In case the person who received decision of the court or prosecutor or other document was not able to sign on the receipt for a reasonable excuse, the delivery of such document should be verified in other possible means and forms.

Article 11.10. Documents of the criminal procedure

1. The Prosecutor General of Mongolia shall approve templates of the records and decisions to be made during the inquiry, investigation, and prosecutor's supervision stages of the criminal procedure.

2. The Judicial General Council shall approve templates of court records to be made during court hearings and trials, and judicial decisions.

Article 11.11. Criminal case file

1. File of a criminal case (criminal case file) shall include decisions made and documents issued during the criminal procedure, other documents attached to the case file, and other items.

2. The investigator, prosecutor, and court trial secretary shall reflect and attach requests, complaints, and reports submitted by participants, decisions of criminal procedure, other documents, and items in the case file by making note about such documents and items or performing registration according to the rule on pubic records.

3. Documents approved by a legal entity and authorized person or submitted by a citizens shall be directly attached to the case file.

4. If some items and documents that cannot be reflected in the case file due to size and other reasons, they shall be included as reflected in a note according to grounds and rules set forth in this law.

5. A criminal case file shall be kept by the investigator during the inquiry and investigation, by the prosecutor if a case file is transferred to prosecutor according to grounds of this law or taken by prosecutor for review, and by the court if criminal case is in adjudication process.

CHAPTER TWELVE

SUMMONNING, COERCIVE APPEARANCE, AND SEARCHING FOR PARTICIPANTS

Article 12.1. Summoning

1. The investigator may summon a witness, victim, civil claimant, civil respondent, expert witness, and defendant to have testimony, introduce decisions, and involve them in investigative operation. Failure to appear as summoned by the investigator shall not serve as a grounds for taking coercive measure for appearance or being responsible.

1. In case the investigator inevitably needs to have testimony, introduce decisions and involve a participant in investigative operation, the investigator shall summon a witness, victim, civil claimant, civil respondent, expert witness, and defendant based on the summoning order of the prosecutor.

3. Participants and other participants shall be brought by summoning order of the court at the adjudication stage.

4. When the court hearing or court trial ends, a witness, victim, the expert witness who issued an expert opinion, accused, and defendant shall be reminded to arrive as summoned and such reminder shall be noted in the court records.

5. If an accused or defendant is detained, they shall be testified in the detention center or shall be brought at the organization that is carrying out relevant criminal proceeding for testimony.

6. Juvenile accused, and defendant, or witness and victim under 18 years old shall be brought through their legal representatives.

/This section was amended by the law dated January 10, 2020/

7. In case a witness, victim, accused, and defendant agreed to appear voluntarily for the testimony, rules stated in this Article can be dismissed.

8. Participants stated in section 1 of this Article can be noticed about summon by the use of communication means of the summoning organization.

Article 12.2. Summoning order

1. A summoning order of the prosecutor and court shall include the following:

1.1. name and position of person issued the summoning order;

1.2. given and last name, and residential address of the individual who was ordered to summon;

1.3. purpose of the summon;

1.4. time and location to appear;

1.5. legal consequences of failure to appear without reasonable excuse;

1.6. signature and stamp.

2. Summoning order addressed to detained accused or defendant shall be delivered to the administration of the detention center.

3. If a witness, victim, civil respondent, expert witness, accused, and defendant avoided to receive the summoning order, it shall be handed over to their advocate or family member who is over 18 years old.

Article 12.3. Coercive appearance

1. If a witness, victim, civil respondent, expert witness, accused, and defendant fails to arrive without reasonable excuse when ordered to summon, the court, on its own initiative or upon the prosecutor's request, shall make a decision on coercive appearance.

2. Decision to coercively bring a witness, victim, civil respondent, the expert witness who issued an expert opinion, accused, and defendant shall include the following:

2.1. The name of the court and judge that made the decision on coercive appearance;

1.2. given and last names, and residential addresses of the witness, victim, expert witness, accused, and defendant;

2.3. legal grounds for the decision on coercive appearance;

2.4. date of coercive appearance;

2.5. the name of organization to implement coercive appearance;

2.6. signature and stamp.

3. In case a witness, victim, civil respondent, the expert witness who issued an expert opinion, accused, and defendant appears voluntarily, the decision on coercive appearance shall not be implemented.

4. Police organization shall implement the decision on coercive appearance of a witness, victim, civil respondent, the expert witness who issued an expert opinion, accused, and defendant to the court.

5. At the stages of inquiry and investigation, the organization investigating the case shall implement the coercive appearance based on a court decision.

6. Any official or person who is under the state special protection shall summon according to the court decision on coercive arrival.

7. It shall be prohibited to coercively bring witness and victim under age 16 or person who is not able to arrive due to serious illness.

Article 12.4. Search for a participant

1. Investigator shall execute search operations either at his/her own will, or according to court decision or prosecutor's assignment, in order to find the following persons, legal entities, object, and property:

1.1. Suspect, accused, defendant, victim, civil defendant or witness whose whereabout is unknown;

1.2 Suspect, accused and defendant who has fled;

1.3. Victim of human trafficking or victim who was taken as hostage;

1.4. Identifying deceased individual;

1.5. person with mental disorders who escaped from hospital;

1.6. Items, livestock, animal, document, and vehicles that are important for criminal procedure.

/This section was amended by the law dated January 10, 2020/

2. Authorized organization shall organize search for accused and defendant and shall report the results within the period set by the court and/or prosecutor.

/This section was amended by the law dated January10, 2020/

CHAPTER THIRTEEN

PROTECTING WITNESS AND VICTIM

Article 13.1. Grounds for court decision on protect the safety of witness and victim

1. During the inquiry and investigation stage, the prosecutor based on the proposal from investigator and request from witness, victim, advocate and legal representatives, and at the adjudication stage, a judge, based on proposal from prosecutor and request from witness, victim, advocate and legal representatives, shall make the decision to take the following protective measures as stated in the Law on Victim and Witness Protection:

1.1. restrict certain acts;

1.2. provide bodyguard;

1.3.ensure confidentiality of information;

1.4.provide with personal safety devices and communication devices.

2. Within the scope of protective measures stated in section 1 of this Article, prosecutor and court may make a decision to take the following measures in conformity with the goal of the criminal proceeding:

2.1.conceal, change, or erase name, residential and work addresses, occupation, and other information that can be used to recognize the witness and victim from the information to be disclosed to public;

2.2. prohibit the disclosure of and search for the information about victim and witness whose names are concealed;

2.3. prohibit the disclosure of information within the period set by the court;

2.4. give pseudo-name to witness and victim for protection until the official disclosure of their names.

3. If the prosecutor's provided opinion on and/or an advocate submitted request about reasonable suspicion about danger to the life or health of victim and witness or their family members and the court considers that suspicion as reasonably grounded, then the court may take the following additional measures:

3.1. allow the witness and victim to be present at the court hearing through the communication means without their actual presence;

3.2. without presence of the witness, to examine the notes of testimony given by witness and/or victim with presence of the defense advocate, or audio and audio-video recordings;

3.3.if a witness, victim has refused to be testified with presence of the defendant or they are not likely giving truth statement when the defendant remains in the courtroom, then the defendant can be ordered to leave the courtroom temporarily.

4. When taking measures stated in section 3 of this Article, the court shall not give any privilege to the accusing party or shall not degrade the rights and legal interests of the defendant and shall provide for the competitiveness and the equality of the parties.

5. On the grounds stated in section 2 of this Article, the court may decide to conduct hearing, trial as wholly or partially closed to public.

6. If authorized official proposed or witness and/or victim requested to annul protection of witness and victim and it is found reasonably grounded, the court or prosecutor may annul or change his/her decision on taking protective measures for witness and victim.

/This section was amended by the law dated January 10, 2020/

7. Court may issue a decision to protect the security of a defendant or an expert witness who is giving testimony to support the detection of the crime and/or to prove the guilt of other defendants based on legal grounds stated in provision 2 of this Article.

8. Prosecutor's decision on taking protective measures for witness and victim and court decision on annulling previous decision to protect witness and victim shall be challengeable.

/This section was amended by the law dated January 10, 2020/

9.In order to ensure protection of confidentiality and safety of witness and/or victim, the investigator, on his/her own initiative or based on reasonably grounded request of a victim, shall not reflect the victim's personal information except his/her first and last names. Such withheld information shall be written and enclosed in separate file and included in the case file as concealed.

10. Withheld information stated in provision 9 of this Article shall be disclosed during the trial.

11. Other protective measures specified in the Law on Victim and Witness Protection shall be applied according to the procedure provided in this law.

/This section was amended by the law dated January 10, 2020/

Article 13.2. Issuing decision to protect the safety of witness and victim

1. Decision on taking safeguarding measures stated in the Law on Witness and Victim Protection shall include the following:

1.1.type of the protective measures to take;

1.2. period for taking protective measures;

1.3. the organization that should implement protective measures;

1.4. legally allowed coercive measures which authorized organization and/or authorized official may use in during the protective measures.

2. In case the life or health of witness and/or victim is threatened, or such threat is attempted, prepared or an attack has been commenced, the organization and/or official that carry out investigative operations shall take protective measures according to the Law on Witness and Victim Protection, they shall immediately address the court to have its decision made according to provision 1 of this Article.

3. The court may take protective measures to ensure the safety of a prosecutor, an advocate or investigator as stated in Article 13.1 of this law.

Article 13.3. Determining as cooperating defendant

1. In the following circumstances, the court may determine a person who committed a crime as a cooperating defendant:

1.1. Member of an organized crime group has voluntarily pleaded guilty and expressed to support detecting the crime committed by such organized group, provide relevant information, and cooperate with authorized organization;

1.2. If there is a ground for acquittal from criminal punishment as stated in the explanations of Article 19.4 /Illegal collaboration with a foreign intelligence service, organization, or citizen/, Article 19.7 /Preparing for sabotage/, Article 20.7 /Illegal usage of narcotic drugs and psychotropic substances/, and Article 29.9 /Preparing for terrorist act/ of the Criminal Code.

2. Defendant shall submit the requests stated in provision 1 of this Article before the prosecutor transfers the case together with his/her sentencing recommendation to the court.

3. The following persons shall not be determined as a cooperating defendant:

3.1. defendant accused of the crime stated in Chapter 29 of the Criminal Code;

3.2. organizer of an organized crime;

3.3. perpetrator of crimes of homicide, and intentional infliction of serious bodily injury;

Article 13.4. Submitting a proposal to be determined as a cooperating defendant to the court

1. Prosecutor shall examine and evaluate crime committed by and the evidence to be provided by the defendant who submitted a proposal of cooperation, and the condition of the crime of which such defendant has expressed to support detection.

2. Prosecutor, before submitting his/her proposal on determining as cooperating defendant, shall take measures to protect the legitimate interests of the victim.

3. Prosecutor shall submit its proposal for determining the defendant as a cooperating defendant to the court as sealed.

4. The court, after receiving the proposal stated in provision 2 of this Article, shall promptly transfer the proposal to the specially authorized judge.

5. Proposal for determining as the cooperating defendant shall include the following:

5.1. name of the court that will resolve the proposal;

5.2. name of a cooperating defendant;

5.3. information about crimes that the person was previously punished, and accused;

5.4. information about crime of which the defendant is accused of;

5.5. the crime on which the defendant willing to cooperate;

5.6. guarantee of the cooperation and giving testimony as witness;

5.7. guarantee of providing evidence of the crime on which the defendant is cooperating.

6. The defendant who is seeking cooperation shall provide the guarantees stated in provision 5.6 and 5.7 of this Article in writing.

7. Prosecutor may submit request to the court about concealing the proposal stated in provision 3 and guarantees stated in 5.6 and 5.7 of this Article without informing the advocate.

8. If the court considers that the request and explanation stated in provision 7 of this Article is reasonably grounded, the court may issue a decision to keep it confidential.

9. Cooperating defendant and associated persons shall be provided by protective measures as specified in this law.

Article 13.5. Court hearing on determining as a cooperating defendant

1. After receiving a proposal stated in provision 3 of Article 13.4 of this law, the judge shall set the date of the court hearing and notify the date to the prosecutor, the defendant seeking cooperation, his/her legal representative, and advocate within 72 hours.

2. Court hearing on determining as a cooperating defendant shall be a closed hearing.

3. In addition to the defendant seeking cooperation, his/her legal representative, and advocate, the participation of anyone shall be prohibited in the hearing on determining as a cooperating defendant except the necessary court official, judge, and police officer responsible for court security.

4. During the court hearing, the defendant seeking cooperation, legal representatives, advocate, and prosecutor may ask questions.

5. The person seeking cooperation shall be reminded about the potential penalty to be imposed for a false testimony.

6. The testimony, explanations, and comments made by the defendant seeking cooperation during the court hearing shall not be used against him/her as evidence.

7. The court shall make a decision whether to determine the person as a cooperating defendant or not.

8. Court decision shall include the following:

8.1. discharge or mitigation of criminal penalty specified in the Criminal Code of Mongolia for the crime which was committed by the defendant seeking cooperation;

8.2. conditions of cooperation on detection of a crime with cooperating defendant;

8.3. consequences that may arise from terminating the court decision on determining as cooperating defendant;

8.4. consequences of false testimony including criminal punishment stated in Article 21.2 of the Criminal Code;

8.5. the cooperating defendant's duty to refuse any conditions, demand, and bonus offered by other persons, and obligation to notify about such incidents or any other potential danger and threat to the investigator and prosecutor;

8.6. the court decision on cooperation with the defendant shall not be applied to a crime that is not specified in the court decision;

8.7. name and signature of the judge.

9. The court decision on determining as cooperating defendant shall be delivered to the prosecutor.

Article 13.6. Record of the court hearing on determining as a cooperating defendant

1. The process of court hearing on determining as a cooperating defendant shall be recorded as court hearing record according to Article 11.7 of this law.

2. Record, minutes and notes, and other related materials of the closed court hearing shall be kept confidential and enclosed separately from the case file as sealed.

3. Only the judge prosecutor and investigator shall be able to access the confidential documents and information to resolve complaint about the criminal proceeding of related criminal case as specified in this law.

Article 13.7. Annulment of the court decision on determining as a cooperating defendant

1. Prosecutor may propose the court to annul a court decision on determining as a cooperating defendant.

2. When resolving the proposal on termination of decision on determining as a cooperating defendant, court hearing shall be a closed hearing.

3. The following circumstance shall serve as grounds for annulment of the court decision on determining as cooperating defendant:

3.1. it is found that the testimony given by the cooperating defendant was false;

3.2. a cooperating defendant intentionally failed to perform his/her duties to give testimony;

3.3. a cooperating defendant failed to provide items, objects, documents, and other evidence which the defendant previously agreed to provide;

3.4. a cooperating defendant is dead or became legally incompetent.

4. In case a court decision on determining as cooperating defendant is annulled according to sections 3.1, 3.2 and 3.3 of this Article, a criminal case shall be commenced based on Article 21.2 of the Criminal Code and the cooperating defendant shall be accused.

5. If an investigation commenced based on Article 21.2 of the Criminal Code, section 6 of Article 13.5 of this law shall no more be applicable to the defendant.

CHAPTER FOURTEEN

RESTRAINING MEASURES

Article 14.1. Restraining measures

1. The following measures shall be applied to accused or defendant according to rules and grounds set forth in this law:

1.1. personal guarantee;

1.2. suspend certain actions or performance of official functions;

1.3. restriction of action or movement;

1.4. bail;

1.5. pre-trial detention;

1.6 transferring to the custody of military unit;

2. During the investigation, restraining measures stated in sections 1.1, 1.4, and 1.6 of this Article shall be taken by a prosecutor, and the restraining measures stated in section 1.1 shall be taken by an investigator.

2. During the investigation, restraining measures stated in sections 1.2, 1.3, and 1.5 of this Article shall be taken upon permission by the court; and during adjudication of a criminal case, restraining measures stated in sections 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 shall be taken by the court.

4. Restraining measures stated in sections 1.1, 1.2, and 1.3 of this Article can be taken separately or together. Restraining measures stated in sections 1.4, 1.5, and 1.6 of this Article shall not be taken together with other restraining measures.

Article 14.2. Personal guarantee

1. Personal guarantee shall be taken to ensure the normal performance of the criminal proceedings considering the nature of crime and personal characteristics of the accused by the decision of the court, prosecutor, or investigator.

2. Accused shall give personal guarantee in writing and sign on it by expressing that he/she will arrive at the time of summoning order issued by the investigator and prosecutor, and will not commit a crime or obstruct the criminal proceedings.

Article 14.3. Enforcement of personal guarantee

~~1. An accused who is giving personal guarantee according to section 1.1 of Article 14.1 of this law shall be a person who has stable residential address and stable job or employment.~~

/This section was annulled by the law dated January 10, 2020/

2. Accused who has given personal guarantee shall immediately notify the court, prosecutor and investigator about any change or proposed changes in his/her employment, residential address, phone number, or mailing address.

3. The court, prosecutor and investigator shall explain the accused that violation of personal guarantee shall serve as ground for changing the restraint measure.

Article 14.4. Suspending certain actions or performance of official functions

1. In order to ensure that an accused does not obstruct the criminal proceedings, the restraining measure can be taken to suspend the accused's employment in public service, professional act, licensed businesses or business on the name of a legal entity, or performance of his/her official duties for a certain period upon the issuance of court decision based on the proposal of the prosecutor.

2. Prosecutor or investigator shall promptly deliver the court decision stated in section 1 of this Article to the relevant accused, organization and legal entity.

3. Organization and legal entity that received the court decision stated in section 1 of this Article, shall notify the prosecutor and investigator about the enforcement of such decision within 3 days after the receipt.

4. Rights of legal entity to conduct certain activities may be suspended according to regulations of this law.

5. When the duration of the suspension is over for certain actions or performance of official functions, or such restraint measure is annulled or changed by a court decision, the prosecutor or the investigator shall immediately deliver the decision to the accused, relevant organization and legal entity.

/This section was amended by the law dated January 10, 2020/

Article 14.5. Restriction of action or movement

1. In order to ensure that an accused does not obstruct the criminal proceedings and to prevent such accused from committing a crime, the court, based on proposal of the prosecutor, can make decision to restrict the accused to leave specified or certain territory, to prohibit him/her to cross the border of Mongolia, visit certain places or see certain individual, and to order the accused to follow a specifically set route.

2. Court decision about taking or annulling the restraint measure specified in section 1 of this Article shall be notified to the organization supervising the enforcement of such restraining measure promptly by the prosecutor or investigator.

3. Court decision shall specify locations which the accused should reach, reside, work, and visit, and individuals with whom the accused should not meet and communicate, and shall order the authorized organization to oversee the enforcement of such restraining measures.

4. When specified in the court decision, the organization enforcing the restriction of action or movement can use a movement control device to control the accused.

5. If the accused is controlled by a movement control device stated in section 4 of this Article, consequences of the violation of regime shall be reminded to the accused in advance.

6. Person or legal entity who has known about failure of obligation stated in section 1 of this Article shall inform of the situation to the authorized organization that is overseeing the enforcement of restraining measures.

Article 14.6. Bail

1. Prosecutor and the court may take monetary bail as restraining measure.

2. Bail can be paid by the accused or by other persons and legal entities on behalf of the accused.

3. Legal entity owned by or with partial ownership of state or local government shall be prohibited to pay bail on behalf of others.

4. Amount of bail shall be set based on the nature of the crime and personal characteristics of the accused.

5. When the bail is taken as restraint measure, the accused shall be obliged to arrive at the time as summoned by court and prosecutor and to refrain obstructing the criminal proceedings.

6. Money paid as bail shall be deposited in a special bank account.

7. If a bailer refuses from its duties and requests to return paid amount of bail, it shall become the ground to change the bail as pre-trial detention.

8. Chief justice of the Supreme Court, the Attorney General of Mongolia, and the Cabinet member in charge of finance shall jointly approve the rule for depositing, transferring, and settlement of money paid for bail stated in section 6 of this Article.

/This section was amended by the law dated January 10, 2020/

Article 14.7. Enforcing bail as restraining measure

1. Amount of money to be paid as bail shall be transferred to the special bank account through bank transactions or by the use of electronic bank cards, and the transaction receipt shall be attached to the minutes.

2. Copies of the transaction receipt stated in section 1 of this Article shall be handed to the accused and the bailer.

3. If the accused released by bail has to leave the place of residence temporarily due to reasonable excuses or is not able to arrive at the time of summoning, he/she should notify about it in advance to the court in adjudication stage, and to prosecutor or investigator in investigation stage.

Article 14.8. Consequences of the violation of bail conditions

1. It shall be explained to the accused and the payer of the bail that violation of duties stated in section 3 of Article 14.7 of this law shall serve as ground for changing the bail as the pre-trial detention and confiscating the bailed amount as the state income, and the process of explanation shall be reflected in the record.

2. If the order of accusation was annulled or the criminal procedure is completed, the bail taken as restraint measure shall be terminated and secured amount of bail shall be returned.

Article 14.9. Pre-trial detention as restraining measure

1. The court shall make a decision to take pre-trial detention for the accused in case one of the following conditions is fulfilled:

1.1. attempted to flee or fled from criminal proceedings;

1.2. threatened, pressured the judge, prosecutor, investigator, victim, expert witness, witness, and accomplices, or there is reasonable suspicion and information that the life or health of such persons is in danger;

1.3. reasonably grounded evidence or information about probable crime has been provided;

/This section was amended by the law dated January 10, 2020/

1.4. Previously taken restraining measure was violated, and failed to be present by summoning order of the prosecutor and court without any valid reason.

2. In conformity with the goals of the criminal procedure, the pre-trial detention can be taken as restraining measure for an accused considering the personal characteristics of the accused of a criminal offenses that is punishable by imprisonment of more than 8 years according to the Special Part of the Criminal Code and the nature of the crime.

Article 14.10. Length of pre-trial detention

1. Basic length of pre-trial detention shall be 1 month for an accused.

2. Considering the complexity of the case and/or when it is necessary to continue the detention, the court may decide to extend the duration of the pre-trial detention up to 1 month for each extension, and total length of pre-trial detention of an accused shall not exceed 12 months for crimes punishable by up to 5 years of imprisonment as stated in the Criminal Code and shall not exceed 18 months for crimes punishable by more than 5 years of imprisonment as stated in the Criminal Code.

3. In case the individual is accused of crime stated in section 2 of Article 10.1 /Homicide with aggravating circumstance/, section 3 of Article 17.1 /Theft with aggravating circumstance/, Article 19.6 /Sabotage/, and/or Article 29.5 /Genocide/ of the Criminal Code and it is necessary to detain the accused longer than the period stated in section 2 of this Article, the court may extend the duration of pre-trial detention by up to 6 months.

4. If an accused is detained again for the same crime or detained for another separated or a consolidated crime, previously detained period shall be included into the calculation of total duration of pre-trial detention.

5. Duration of arrest as being suspect shall be included into the calculation of total duration of pre-trial detention. Up to 24 hours of arrest shall be counted as 1 day of pre-trial detention.

Article 14.11. Prohibition of pre-trial detention as restraining measure

1.Taking pre-trial detention measure again on the same ground shall be prohibited for the accused who was released by termination of previous pre-trial detention.

2. Pre-trial detention measure shall be applicable to a juvenile accused, breastfeeding and pregnant accused on the grounds set forth in Article 14.9 of this law, or if they violated the previously taken restraining measure and/or committed another crime during the duration of restraining measure.

Article 14.12. Prosecutor's decision to take restraining measures

1. The prosecutor shall make a decision to take, change, or terminate the restraining measures stated in sections 1.1,1.4, and 1.6 of Article 14.1 of this law either at his/her own initiative or based on the proposal from the investigator within 24 hours after the receipt when considering such proposal as reasonable.

2. During the investigation stage, accused, his/her legal representative, and/or advocate may submit a request to change or terminate restraining measure taken addressing the prosecutor.

Article 14.13. Court hearing on restraining order

1. At any time of the criminal proceeding, the prosecutor, accused, his/her legal representative, and advocate may submit a request to the court about taking, changing, terminating, and extending restraining measures stated in sections 1.2, 1.3, 1.5 of Article 14.1 of this law.

2. Within 24 hours after receiving the request stated in section 1 of this Article, the court shall notify the date of the court hearing on restraining order to the prosecutor, and advocate.

3. Court hearing shall ensure presence of the prosecutor, legal representative of accused, and defense advocate; and the accused shall be present upon his/her request.

4. If defense advocate failed to be present at the court hearing, an appointed advocate can be involved.

5. The prosecutor, accused, his/her legal representative, and advocate shall introduce the grounds of their proposal to the court.

6. Process of the court hearing shall be recorded as court hearing record according to articles 11.7 and 11.8 of this law and shall be presented.

7. Court decision about annulling the restraining measure taken for the accused shall be enforced immediately.

8. Court decision shall include the following:

8.1. personal information of the accused who was taken the restraining measure;

8.2. given and family names, official position of the person who submitted the proposal or request;

8.3. grounds stated in the request or proposal;

8.4. ground that court accepted the request/proposal or refused from accepting the request/proposal, and relevant evidence;

8.5. given and family names, and signature of the judge;

8.6. date.

9. The court shall explain to the accused, his/her legal representative, advocate, and prosecutor that they have right to appeal the court decision on taking, changing, terminating, and extending restraining measures.

10. In case the court makes decision to take pre-trial detention measure for the accused:

10.1. within 2 hours after the court decision is made, the detention shall be informed to a member of the accused's family who is over 18 years old, or defense advocate. In case the detainee is a foreign citizen, it shall be informed to the relevant diplomatic mission, or shall be informed to the Central state administrative body in charge of external affairs if diplomatic mission of such country is not established in Mongolia;

10.2. court decision shall state that the accused to be detained in the detention center located in the territory of such court's jurisdiction.

11. Based on proposal from prosecutor, the court may make decision to change the detention center and transfer the accused or defendant for the following cases:

11.1. when investigating a corruption crime or a crime committed by organized crime group;

11.2. when investigating crimes stated in Article 10.1 /Homicide/, Article 19.4 /Illegal collaboration with a foreign intelligence service, organization, or citizen/, Article 19.7 /Preparing for sabotage/, Article 20.7 /Illegal usage of narcotic drugs and psychotropic substances/, and Article 29.9 /Preparing for terrorist act/ of the Criminal Code;

11.3. if there is reasonable suspicion and information about probability of danger to the life and health of the accused;

11.4. when it is necessary to verify testimony of the accused on the spot in the territory of other court's jurisdiction.

12. Decision on transferring to another detention center shall be notified according to section 10.1 of this Article.

Article 14.14 Transferring to the custody of military unit

1. Military personnel who became accused or defendant shall be transferred to the custody of relevant military unit by order of prosecutor or decision of a court.

2. Higher ranking officer of military unit shall be obliged to bring the personnel as summoned by the investigator, prosecutor, and court.

CHAPTER FIFTEEN

LODGING REQUEST AND COMPLAINT

Article 15.1. Lodging request and compliant

1. Participants of criminal procedure shall have the right to submit request about ensuring protection of their rights and legal interests to court, prosecutor, and investigator.

2. Any participant, other participant, and legal entity of which legal interests are affected due to criminal proceedings, shall have the right to lodge complaint about actions taken and decisions made by the court, prosecutor, and investigator.

Article 15.2. Rules for making requests and complaints

1. Requests and complaints can be lodged at any time of criminal proceedings.

2. Appeal against decisions made by court, and prosecutor can be submitted within the periods specified in this law.

3. Request should clearly indicate facts to be established, and the decision to be made.

4. Requests should be addressed to the court, prosecutor, and investigator who is carrying out the relevant proceeding, and complaints shall be lodged to authorized organization or official who has power to oversee and make decision as stated in laws.

5. Requests and complaints shall be made in verbal or written forms, and it shall be recorded and reflected in minutes if made verbally, and officer received and person made shall sign on the minutes.

6. In case any request or compliant is not satisfied, it shall not become ground to restrict the rights to submit request or complaint again during the criminal proceedings and other processes.

Article 15.3. Transferring request and complaints submitted by arrested suspect, detained accused and defendant

1. If arrested suspect or detained accused, and defendant submitted request or complaint according to the rules of this law, the administration of detention center shall deliver them to the addressee within 12 hours.

2. A suspect who was summoned shall have right to lodge request and compliant stated in this law in connection to the summoning.

Article 15.4. Resolving request

/This section was amended by the law dated January 10, 2020/

1. If a legally lodged request is important for protecting rights and legitimate interests of a participant, other participant, or legal entity the court, prosecutor, investigator shall make decision to satisfy such request wholly or partially, otherwise decision to decline the request shall made.

2. A request shall be resolved immediately where the ground for satisfaction is clear and shall be resolved within 5 working days from the date lodged when further examination is necessary.

Article 15.5. Suspending the enforcement of decision in relation to lodging complaint

1. Where necessary, an official who is responsible for resolving the complaint may suspend the enforcement of decision made by the court, prosecutor, and investigator until the compliant is resolved.

Article 15.6. General rules for resolving complaint

1. A complaint about the official specified in section 2 of Article 15.1 of this law shall be reviewed by an authorized person who should supervise such official's decisions and actions. The authorized person shall review grounds stated in the complaint fully and objectively from all available aspects and shall have the right to request additional evidence or explanations if necessary.

2. Authorized person reviewing a complaint shall be obliged to take prompt measures within its authority in order to protect the violated rights and legitimate interests of a complainant.

3. In case it is found that the complainant has suffered by property and/or health damages due to unlawful decision or action resolving person should explain that the complainant has the right to reparations according to rules set forth in this Law.

Article 15.7. Resolving complaint about decision or action of investigator or prosecutor

1. Complaint about decision or action of investigator shall be lodged to the supervising prosecutor, and complaint about decision or action of the supervising prosecutor shall be lodged to respective upper-level prosecutor.

/This section was amended by the law dated January 10, 2020/

2. Prosecutor shall resolve a complaint within 14 days after the receipt or within 21 days if additional materials needed to be reviewed and other measures should be taken.

3. An authorized person or a prosecutor who has reviewed a complaint shall make decision to revoke, terminate, or change the decision and/or action of investigator or prosecutor, otherwise may decide to refuse to receive the complaint.

4.The decision about the complaint shall be informed to the complainant and it shall be explained to the complainant that he/she has the right to complain about the decision to the upper-level prosecutor's office within 3 days after receiving the decision.

/This section was amended by the law dated January 10, 2020/

Article 15.8. Complaining about a court decision

1. If prosecutor or participant does not agree with the court decision stated in Articles 12.3, 13.1, 13.2, 13.5, 13.7, 14.4, 14.5, 14.13, 19.2 and 19.3, section 1 of Article 21.2, and section 1 of Article 21.5 of this law, they may lodge a complaint within 3 days.

2. Court decision made during the first instance, appellate instance, and cessation instance proceedings shall not applicable to section 1 of this Article.

3. If complaint is about a court decision made by a judge on his/her own during the inquiry and investigation stages, it shall be resolved by the Chief Justice of the relevant court or appointed judge when the Chief Justice is away and such decision shall be the final decision.

/This section was amended by the law dated January 10, 2020/

4. A complainant shall have the right to participate in the process of reviewing and resolving his/her complaint, and to present the evidence and necessary document.

5. The court, after reviewing the complaint, shall make one of the following decisions:

5.1. to satisfy the complaint and modify the court decision;

5.2. to leave the compliant unsatisfied.

6. If the person who lodged complaint failed to be present at the court, it shall not serve as grounds for postponing the court hearing.

Article 15.9. Enclosing request and complaint in case file

1. All requests, complaints submitted according to this law and documents, notes that can evidence the resolution, and other relevant materials shall be enclosed in the case file.

CHAPTER SIXTEEN

EVIDENCE

Article 16.1. Evidence

1. Any evidenced information obtained according to grounds and rules stated in this law that is important for resolution of the criminal case, shall be considered as evidence.

2. Evidenced information shall include testimonies of witness, victim, civil claimant, civil respondent, suspect, accused, and defendant, physical evidence, documents, opinion and testimony of expert witness, conclusion of investigator, and movie, photo, sketch, audio recording, video and audio-video recording which were authenticated according to regulation of this law, molded trace, records, minutes, and notes of investigation and trials, complaint and information about crime submitted by individuals, legal entities, and officials, and other evidence stated in this law.

3. Evidenced information collected and authenticated according to grounds and rules stated in this law during the resolving of complaint, information, and request of citizens, and legal entities lodged to the prosecutor, investigator, and government organization or during the resolving procedure of infringement, civil, administrative and other cases except criminal cases or during the inspection of professional organization, and evidenced information delivered from foreign countries according to rules set forth in Article 42 of this law can be considered as evidence.

4. Investigator shall collect, document and verify the evidenc according to grounds and rules set forth in this law.

5. Considering evidenced information as evidence according to section 2 of this Article shall not serve as the ground to restrict conducting investigative operation to verify such evidence.

6. It is prohibited to collect and authenticate evidence by using illegal means and ways.

7. Any evidence collected in way of violating grounds and rules set forth in this law shall be considered as inadmissible.

8. Evidence that is examined by court hearing and/or court trail shall serve as the grounds for the court decision.

9. Any evidence that is not included in the case file shall nor serve as the grounds for the court decision.

10. Items, objects, documents, complaints, information, and other evidence provided by the victim, his/her legal representative, and advocates shall be received by investigator or prosecutor and reflected in the case file.

11. Items, objects, documents, complaints, information, and other evidence given by the participants to the prosecutor and investigator shall not be considered as evidence if the sources are not provided.

12. Any information about communication related legal aid and advocate's services shall not be considered as evidence.

13. After ensuring that evidence is collected and authenticated legally and relevant to the criminal case, judge, prosecutor, and investigator shall evaluate if all evidence is adequate for resolving the case as a whole.

14. If the relevance and/or importance of any evidence is found questionable during examination of the evidence, such evidence shall not be used as ground for the decision of court or prosecutor.

15. Evidence reflected in the case file shall be examined by court trial and the court shall decide which evidence should serve as the grounds for the court decision.

Article 16.2. Circumstances subject to proving

1. In the course of inquiry, investigation, and adjudication the following circumstances shall be subject to proving:

1.1. the circumstance in which the crime is committed (time, place, mode and other circumstances stated in the Criminal Code);

1.2. the person committed the crime;

1.3. the motives, goal, and form of guilt of the crime;

1.4. aggravating or mitigating factors of the sentence of accusing crime stated in the Criminal Code;

1.5. the character and the size of the damage caused by the crime;

1.6. reason and cause of the crime.

Article 16.3. Testimony

1. Investigator may take testimony from suspect, accused, defendant, victim, civil claimant, civil respondent, and other participants in order to clarify the circumstances that are important for resolving criminal case, and take testimony from expert witness to have clarification or explanation about the expert opinion issued by him/her.

2. Testimony of suspect, accused, and defendant shall be considered as evidence, but the testimony alone shall not serve as grounds for accusation.

3. In case testified person could not provide the source of his/her testimony, such testimony shall not serve as evidence alone.

4. It is prohibited to take testimony from the following persons:

4.1. judge and prosecutor who previously resolved the same case;

4.2. advocate, lawyer who obtained knowledge about the case while performing professional duty of providing legal assistance;

4.3. mediator who obtained knowledge about the case in the course of performing legally imposed duties;

4.4. person who is identified as incapable to understand circumstances of the case clearly and to testify correctly due to disease;

4.5. Psychologist who obtained knowledge about crime allegedly perpetrated by suspect, accused, and defendant during a treatment;

4.6. witness and victim who refused to give testimony against oneself or family member.

5. Notes made during interaction with suspect, accused and defendant as stated in section 4.5 of this article, audio, video and audio-video recording shall not be evidence, and they can be considered as evidence with written permission from suspect, accused and defendant.

6. Witness testimony can be taken from person stated in 4.5 of this Article based on written consent from suspect, accused, and defendant.

7. If a witness testifies that he/she heard about the conversation between the persons stated in section 4.5 of this Article and a suspect, accused, or defendant from the suspect, accused, or defendant himself/herself, then such testimony can be considered as evidence.

8. The following testimonies shall not become grounds for court decision or proof of a person's commission of a crime or guilt:

8.1. testimony of an anonymous witness;

8.2. testimony of a cooperating defendant;

8.3. guilty plea of accused and defendant;

8.4. testimony by witness and victim that was identified as incapable to clearly understand the case the correctly testify due to disease.

9. Court shall compare the testimonies reflected in the file with the testimony at the trial and shall decide if such testimony can be the ground for the court decision.

Article 16.4. Physical evidence

1. Vehicles, transportation means, arms and tools used to commit crimes, or money, valuables, other items and documents obtained through criminal offense, and written or electronic materials and other items that contain traces of crimes and that are important for detecting crime and identifying individual and/or legal entity committed the crime, establishing the facts of a criminal case, or negating or mitigating the guilt of suspect, accused, or defendant, shall be considered as physical evidence.

Article 16.5. Opinion and testimony of expert witness

1. In case special expertise is required or in order to find the value of item and property during criminal proceedings, expert's analyses shall be conducted.

2. If several expert witnesses are appointed, they shall consult before producing expert opinion and all shall sign if everyone agrees with the outcome.

3.Expert who disagrees the outcome shall provide written comments and attach it to the expert opinion.

4. Court, prosecutor, investigator and advocates are not obliged to agree with expert opinion during the criminal procedure, but if they don't agree with it, the grounds for disagreement must be specified.

5. In case multiple expert opinions and investigator's conclusions are provided, such conclusions and opinions shall be review by court and the court shall decide which opinion and conclusions to be used as evidence.

Article 16.6. Documents

1. Documents approved and written by the legal entity, officials, and citizens and documents that are important for resolving the criminal case verified by the respective government organizations can be considered as evidence.

2. If written evidence has characteristics stated in Article 16.4 of this law, it shall become evidence.

3. The original written evidence shall be kept, but if it is not possible, prosecutor and investigator shall keep its copy by providing note.

4. The truthfulness of evidences stated in section 3 of Article 16.1 of this law shall be verified by government when it is to be submitted for criminal proceedings.

Article 16.7. Note of investigation, prosecutor's supervision, and records of court trial

1. Note of investigation, prosecutor's supervision, and trial records, attached audio, video, and audio-video recordings, photos, hand drawing, and molded trace shall become evidence.

2. If the conditions reflected in the notes of investigation, prosecution, and trial records contradict with audio, video, and audio-video recordings, the court and prosecutor shall consider the audio, video, and audio-video recording as the evidence.

3. In order to establish conditions specified in section 2 of this Article, the court may summon a person who participated in the investigation process as a witness and examine the evidence upon the request of prosecutor or participants.

Article 16.8. Considering results of undercover investigative action as an evidence

1. Results of undercover investigative action executed according to grounds and rules set forth in the law shall be considered as evidence, and methods, tools, source of evidence, and evidence collection and authentication shall be kept confidential.

2. Prosecutor and investigator shall comply with section 1 of this Article when attaching their decision to execute undercover investigative action and its results in the case file.

3. Issues related to the organization responsible for undercover operations, principles to be adhered by relevant officials, and determining rights and obligations of such officials which are not specified in this law, shall be regulated by Law on Undercover Operations.

4. Investigator shall make conclusions on the documents and information demonstrating the results of the undercover operations as stated in section 1 of this article, followed by verification by the prosecutor and attach in the file.

5. In case the case file does not include them, it shall be prohibited to present the evidence, information, and results of undercover operation, and other information related to undercover operation at the court hearing, preliminary hearing, and court trial.

Article 16.9. Refusing from examination of evidence

1. For the following occasions, the court shall not examine the evidence again:

1.1. publicly recognized facts and facts of the case that were previously proven by the legally binding court decisions;

1.2. provided to clarify circumstances that is irrelevant to the case;

1.3. facts and evidences that are provided in order to obstruct the criminal proceedings.

Article 16.10. Resolving request about providing evidence, request to get evidence examined, and request to execute investigative action

1. Items, objects, documents, information, and other evidence provided by victim, civil claimant, civil respondent, accused, their legal representatives, and advocates shall be received by investigator by taking notes and attached, reflected in the case file.

2. victim, civil claimant, civil respondent, accused, their legal representatives, and advocates have the right to lodge request to the court, prosecutor, and investigator to have circumstances that are important for the resolution of the case checked and established.

3. Request should indicate facts to be established, and investigative actions to be executed.

4. If the request stated in section 2 of this Article is important for resolving the case fully and objectively from all available aspects, the court, prosecutor, or investigator shall make a decision to satisfy such request wholly or partially, otherwise decision to decline the request shall made.

5. In case victim, civil claimant, civil respondent, accused, their legal representative and advocates consider that investigator's decision to decline the request stated in section 2 of this Article is ill-grounded, such participants shall lodge a complaint to the prosecutor. A challenge against prosecutor's decision to decline the request shall be lodged to the upper-level prosecutor.

6. Requests, complaints, and documents related to satisfying or not satisfying such requests and complaints stated in this Article shall be reflected in the case file.

7. Items, objects, documents, information, and other evidence submitted according to this Article can be considered as evidence by discussion of the preliminary hearings and examined at the court trial upon request of participants.

Article 16.11. Inadmissibility of evidence

1. For the following occasions, the court shall resolve prosecutor's opinion and participants' request about inadmissibility of the testimony of suspect, accused, and defendant given against themselves and make decision to determine if such testimony is admissible:

1.1. interrogation violated this law;

1.2. Article 5.3 of this law violated;

1.3. right to have the lawyer with him during interrogation was violated.

2. Court shall review the prosecutor's proposal and participants' request for qualifying evidence wholly or partially inadmissible considering that evidence was collected and authenticated in violation of the grounds and rules set forth in this law may not meet the goal of the criminal procedure or their request for qualifying some evidence collected through investigation as inadmissible, then the court shall make the following decisions:

2.1. refuse from accepting their proposal and request;

2.2. qualify evidence wholly or partially inadmissible;

2.3. qualify some evidence which was collected and authenticated through investigation.

3. Court shall resolve the prosecutor's proposal and participant's request for qualifying evidence as inadmissible which evidence is collected and authenticated based on evidence stated in sections 1 and 2 of this Article.

Article 16.12 Inadmissibility evidence collected through torture

1. if it is found that torture, cruel treatment and other inhumane ways of interrogation are used, such testimony shall be considered as evidence inadmissible under the rules set forth in Article 16.11 of this law.

2. Testimony stated in section 1 of this Article can be qualified as admissible evidence for the resolving of the crime of torture.

Article 16.13. Evidence that is refused from examination and considered as inadmissible

1. The court shall reflect about the evidences that were rejected and considered as inadmissible according to articles 16.9 and 16.11 of this law in the court decision and trial records.

Article 16.14. Collecting and authenticating evidence

1. Evidence shall be collected through the investigave actions stated in this law, physical evidence and evidenced information collected shall be reflected and authenticated in the minutes of investigative actions, court hearing, and trial.

2. During the authentication of evidence note shall be made and methods complied with principles of criminal procedure for evidencing information shall be used including audio, video, audio-video recording, photographing, hand drawing, taking pattern, mould, and other methods.

3. In collecting and authenticating evidence, investigator shall take all necessary measures to ensure that evidence is protected and not destructed, vanished, or damaged.

4. In collecting and authenticating evidence, it is prohibited to use unlawful methods including causing danger to lives or health of citizens, defaming their reputation, treating cruel and inhumane, threatening, forcing to give testimony, comments and conclusions, and deceiving.

Article 16.15. Examining the evidence

1. In collecting and authenticating evidence, investigator shall evaluate if such process is implemented according to laws and if collected evidence is relevant and important for the crime.

2. The court, prosecutor and investigator shall be guided by law and legal consciousness and shall evaluate evidence with their own truthful belief from all available aspects carefully, fully, and objectively.

3. Evidence collected for the case shall be authenticated by using methods of compared analysis, comparing with other evidence, collecting new evidence, and verifying the source of the evidence.

PART IV

SPECIAL RULES OF CRIMINAL PROCEEDING

CHAPTER SEVENTEEN

SIMPLIFIED PROCEDURE FOR CRIMINAL PROCEEDING

Article 17.1. Accused's request for simplified criminal procedure

1. Accused may voluntarily plead guilty of committing a crime and may submit request for resolution of the case by simplified criminal procedure to the prosecutor.

2. Accused and his/her advocates shall make the request stated in section 1 of this Article before the case is transferred to the court.

3. Accused shall submit the request stated in section 1 of this Article together with the document that shows the payment for damages is paid.

/This section was amended by the law dated January 10, 2020/

4. It is prohibited to force or demand the accused to plead guilty.

5. Criminal cases punishable by imprisonment of more than 8 years according to the Special Part of the Criminal Code shall not be resolved through simplified procedure.

Article 17.2. Resolving request [for simplified criminal procedure]

1. In case an accused voluntarily pleaded guilty of committing a crime and submit request for simplified criminal proceedings of the case, the prosecutor shall explain grounds and rules of sentencing, discharging, and reprieve with compulsory measures as stated in section 4 of Article 5.5, and Article 6.7 of the Criminal Code, and regulations about resolving criminal case stated in this Chapter to the accused.

/This section was amended by the law dated January 10, 2020/

2. The prosecutor shall make decision to satisfy the request or refuse.

3. If the prosecutor considers that the case can be resolved by simplified criminal procedure, the investigator shall complete the investigation of such case within 14 days.

Article 17.3. Prosecutor's supervision

1. Prosecutor shall review the case materials and verify if the following circumstances were established:

1.1. if the accused voluntarily pleaded guilty;

1.2. conditions stated in section 4 of Article 5.3, section 2 of Article 5.4, section 4 of Article 5.5, and Article 6.7 of the Criminal Code are satisfied;

/This section was amended by the law dated January 10, 2020/

1.3. criminal offense is proved by evidence.

2. In case the accused requested for additional investigative actions, or refused from the request for simplified procedure, disagreed with sentence and criminal punishment, or or any of circumstances stated in section 1 of this Article has not been established, the criminal case shall be resolved by usual procedure upon the prosecutor's decision.

3. If the prosecutor considers that the case can be resolved by simplified criminal procedure, sentencing, types and severity of criminal punishment or discharge or reprieve with compulsory measures shall be proposed to the accused, his/her advocate. If the accused agrees with this proposal, the prosecutor shall have his/her signature on such proposal and shall promptly transfer the case to the court together with his/her sentencing recommendation.

/This section was amended by the law dated January 10, 2020/

4. In case the process stated in section 3 of this Article is implemented, rules stated in Chapter Thirty Three of this law shall not be applicable to such process.

Article 17.4. Rules of simplified procedure at the adjudication stage

1. When criminal case is being resolved by simplified procedure, the court may apply the special procedure stated in this Chapter at the adjudication stage apart from the usual procedure stated in this law.

2. If the court considers that the criminal case can be resolved immediately, trial of such case can be announced as soon as the court receives the case or within 7 days from the receipt.

/This section was amended by the law dated January 10, 2020/

3. At the trial, the prosecutor, defendant, his/her advocate, or legal representative shall take part. The presence of victim, his/her legal representative, and advocate shall be allowed upon request.

4. The following circumstances shall be examined during the trial:

4.1. if the defendant's criminal offense is proved by evidence;

4.2. if guilty was pleaded voluntarily;

4.3. if sentence and compulsory measures proposed by prosecutor are agreed;

/This section was amended by the law dated January 10, 2020/

~~4.4. if criminal punishment is accepted;~~

/*This section was annulled by the law dated January 10, 2020/*

4.5. if the defendant paid or expressed to pay losses and damages caused by the crime;

/This section was amended by the law dated January 10, 2020/

4.6. if legal consequences of pleading guilty was acknowledged.

5. In case grounds for resolving case by simplified process are found, the court shall consider the defendant as guilty and shall make decision to punish the defendant without degrading the legal status of the defendant within the scope of the prosecutor's sentencing recommendation based on rules stated in section 4 of Article 5.3, section 2 of Article 5.4, section 4 of Article 5.5, and Article 6.7 of the Criminal Code.

/This section was amended by the law dated January 10, 2020/

6. In case the defendant refused from the request for simplified procedure or any of circumstances stated in section 4 of this Article has not been established, the court shall make decision to return the case to the prosecutor.

Article 17.5. Simplified procedure for some crimes

/*This section was annulled by the law dated January 10, 2020/*

Article 17.6. Consequences of failure to be present of victim, defendant, prosecutor, and advocate at the court trial

1. In case a defendant, prosecutor, advocate, or the victim who requested to attend at the trial failed to arrive, it shall serve as the grounds for postponing the trial.

2. Advocate and prosecutor shall arrive at the trail unless there is a reasonable excuse.

CHAPTER EIGHTEEN

CRIMINAL PROCEDURE AGAINST JUVENILE SUSPECT, ACCUSED, AND DEFENDANT

Article 18.1. Rules of criminal procedure against juvenile suspect, accused, and defendant

1. Apart from the usual rules stated in this law, the special rules described in this Chapter shall be applied to criminal proceedings of crimes committed by juvenile suspects, accused, and defendants.

2. During the criminal procedure against juvenile defendant, advocate's presense shall be mandatory and when necessary, the presence of an educator or an officer of government organization responsible for children can be ensured.

3. If the court, prosecutor or investigator considers that the legal representative of a juvenile suspect, accused, and defendant possibly pose danger to their legal interests, legal representatives shall not be allowed in criminal proceedings.

4. If juvenile suspect, accused, defendant, and their legal representatives failed to select an advocate, the an appointed advocate can be involved in criminal proceedings according to Article 25 of this law.

Article 18.2. Common requirements of criminal procedure against juvenile defendant

1. When the court, in adjudicating the criminal cases allegedly commited by juveniles and making decision, shall ensure that their rights and legal interests are respected.

2. When dealing and communicating with juvenile defendants, their dignity and reputation shall be respected, age related characteristics shall be taken into account, and they should be provided with opportunities to fix their wrongdoings.

3. Trial against juvenile defendants should be closed to the public and their rights, legal interests, and other potential damages to them shall be specifically taken into account when publicizing court decisions.

4. The court shall ensure that criminal procedure against juvenile defendant to be more expedient and shorter than usual criminal procedure.

Article 18.3. Determining the personal characteristics of the juvenile accused, and defendants

1. The following information about the juvenile accused and defendants shall be established in connection to determining their personal characteristics:

1.1. date of birth, age;

1.2. Information about their living conditions and upbringing;

1.3. reason and cause of the criminal offence;

1.4. if there was a co-accomplice in the case;

1.5. an expert opinion witness can be issued if it is doubtful that juvenile accused or defendant, due to lack of cognitive development, may not clearly understand the consequences of their acts even though there is no symptom of mental illness.

2. Age of the juvenile accused and defendant shall be identified based on the civil registration documents obtained according to law.

3. An expert witness shall be appointed in the following cases in order to identify the age of the juvenile accused and defendant:

3.1. if there is a ground to consider that document stated in section 2 of this Article is forged;

3.2. if document stated in section 2 of this Article is not available;

3.3. if civil registration belongs to other country and it is unable to obtain the document stated in section 2 of this Article.

4. If the age of juvenile accused or defendant is identified in different ways than those stated in section 3 of this Article, the court shall decide whether the evidencing document of age identification should be examined by the court or not.

5. During the adjudication process, the court may demand the prosecutor to provide the following information:

5.1. defendant's behavior, characteristics, and mood before and after the crime;

5.2. condition of the defendant at the time of committing a crime.

6. The court may demand the prosecutor to provide the information stated in section 5 of this Article for adjudicating the case against sentenced juvenile.

Article 18.4. Separation of case against juvenile

1. Criminal offence allegedly commited by a juvenile shall be separated from criminal case at the stage of investigation.

2. If separation of a juvenile's offence may obstruct thorough, complete, and objective establishment of the case, it can be decided not to separate.

Article 18.5. Participation of legal representative in the investigation

1. Prosecutor, and investigator shall identify the legal representatives of the juvenile and explain their rights exerciseable during the investigation.

2. Legal representative of juvenile suspect and accused shall exercise the following rights:

2.1. be informed of what crime the juvenile suspect and accused is accused of;

2.2. be present at the time the defendant is introduced to the order of accusation;

2.3. be present during interrogation of juvenile suspect and accused, and other activities with presence of accused and advocate upon the permission of prosecutor;

2.4. lodge request and complaint;

2.5. request for examination of items that can be considered as evidence.

Article 18.6. Procedure for summoning and arresting juvenile suspect and accused

1. If the suspect to be arrested is a juvenile, procedures set forth in this Article shall be complied with.

2. A juvenile suspect or accused shall be summoned through his/her legal representative, guardian.

3. If it is reasonably believed that the criminal procedure would be obstructed, section 2 of this Article shall not be applicable.

4. Within six hours from coercively bringing, arresting, or pre-trial detention of juvenile suspect, it shall be notified to family member, legal representative, or advocate of such juvenlie.

5. Arrested or detained juveniles shall be kept separate from arrested individual who is over 18 years old and suspects, accused, and defendants who are over 18 years old.

Article 18.7. Court hearing of juvenile cases

1. Court hearings on taking restraining measures on juvenile accused organized in accordance with rules set forth in Article 14.13 of this law shall be closed to public and the presence of advocate and legal representative shall be pertimitted.

2. Legal representative's failure to arrive at the hearing shall not serve as ground to postpone the hearing.

Article 18.8. Pre-trial detention of a juvenile

1. Court hearing on taking pre-trial detention measure for a juvenile organized in accordance with Article 14.13 of this law shall ensure participation of advocate; and the presence of the legal representative, guardian of the accused can be permitted upon request.

2. The principal length of pre-trial detention of a juvenile accused shall be 1 month and total length of pre-trial detention shall not exceed 3 months for crimes punishable by up to 5 years of imprisonment as stated in the Criminal Code and shall not exceed 6 months for for crimes punishable by more than 5 years of imprisonment as stated in the Criminal Code.

Article 18.9. Introducing case materials to juvenile defendant, his/her legal representative

1. The presence of legal representative and advocate shall be ensured when case materials are introduced to a juvenile defendant.

2. If the investigator considers that the presence of legal representative may violate the rights and legal interests of the juvenile defendant, his/her legal representative shall not be allowed when case materials are introduced to a juvenile defendant.

Article 18.10. Participation of legal representatives of juvenile defendant at trials

1. Legal representatives of a juvenile defendant shall have the right to participate at trials, to take part in examining evidence, to recuse of the participants of a trial and these rights shall be explained to them at the opening of the trial by the presiding judge.

2. If it is necessary to interrogate the legal representatives of the defendant as witnesses, they shall be testified after the victim has been testified.

3. Legal representatives of the defendant shall be present during the entire trial.

4. If it is reasonably believed that legal representative's presence at the trial can be harmful to the interests of juvenile defendant, the presence of the legal representative's can be restricted fully during trials or for some particular parts of a trial.

5. If the court does not consider that the presence of legal representatives of the defendant is necessary, their failure to be present at the trial shall not serve as a reason to postpone the trial.

Article 18.11. Removal of juvenile from courtroom

1. If it is found that any condition may have a negative influence on the juvenile defendant, upon requests of the participants, the presiding judge of the trial may order to remove the juvenile from the courtroom.

CHAPTER NINETEEN

RULES OF THE APPLICATION OF COMPULSORY MEDICAL MEASURES

Article 19.1. Grounds for using compulsory medical measures

1. Special rules set forth in this Chapter shall be applicable apart from rules of the usual procedure stated in this law when compulsory medical measures are applied to a accused and defendant who committed crime in mental state that is not capable of being responsible for the criminal offense or who has contracted a such mental illness after committing the crime.

2. If it is proved that the accused who committed a crime when he/she was incapable to be responsible for the criminal offencse and the mental status of the accused is currently not dangerous to himself/herself or to others, the prosecutor shall repeal the case.

3. The decision of the prosecutor on recommending compulsory medical measures and transferring case to the court shall include the establishment of proved criminal offense, and grounds for applying compulsory medical measures.

Article 19.2. Use of psychiatric diagnosis

1. For the accused stated in section 1 of Article 19.1 of this law, the previous history of mental illness, in addition, the status of mental illness, behavior, and severity of illness when he/she was committing the crime or during the investigation of the crime shall be established.

2. If the prosecutor, accused's legal representative, and advocate have reasonable suspicion about the mental health of the accused, they shall submit a request for appointing an expert witness to identify if the accused is competent to be responsible for the crime.

3. If the request stated in section 2 of this Article is considered as grounded, court shall appoint an expert witness.

4. If the accused should be hospitalized in medical institution, observed under psychiatric surveillance in order to have expert opinion is issued, the court shall make decision to transfer the accused to medical institution to the observation of doctor based on the request of the expert witness.

5. Period spent in medical institution under observation of psychiatrist as stated in section 4 of this Article shall be included into the calculation of the duration of pre-trial detention.

6. In case an accused is incapable to understand the investigation process and circumstances, the court may refuse to introduce decision about diagnosis of mental illness and the expert opinion to the accused.

Article 19.3. Resolution of the case by trial

1. The presence of [mentally ill] defendant who committed crime can be allowed at the trial considering the condition of his/her illness.

2. In occasions specified in sections 3 and 4 of Article 6.3 of the Criminal Code, the case shall be resolved by a trial with presence of the public prosecutor and advocate.

3. During the trial, information that evidences or negates the defendant's guilt shall be examined, the expert opinion about the mental condition of the defendant shall be heard, and other facts that are important for the application of compulsory medical measures shall be reviewed.

4. The court shall make the following decision:

4.1. impose criminal penalties or return the case to prosecutor if the court considers that defendant mentally capable to be responsible for the offensive acts;

4.2. apply compulsory medical measures, or transfer to psychiatric hospital treatment or to the guardianship in case it is found that the mental situation of the defendant who has contracted mental illness after committing the crime may pose danger to himself/herself or to others;

4.3. repeal the criminal case or annul the order of accusation if the mental situation of the defendant who committed crime in mental state that is not capable of being responsible for the criminal offense, would not pose danger to him/herself or to others;

4.4. postpone the trial and make decision stated in section 4.2 of this Article if it is considered that defendant is incapable to be responsible for the criminal offense, but the illness possibly be treated.

/This section was amended by the law dated January 10, 2020/

5. In case it has not proved that the defendant is guilty of a crime or a circumstance in which criminal proceeding should not be carried out, the order of accusation shall be annulled regardless if the defendant is mentally ill or not.

6. Type and length of compulsory medical measures shall be set by the court based on expert opinion and recommendation the prosecutor.

7. Prosecutor shall supervise the enforcement of compulsory medical measures, and shall recommend the court to make decision on terminating or extending such measures, or imposing penalties if it is established by expert opinion that the defendant has recovered from mental illness.

8. Period spent under compulsory medical measures shall be included into the served term of the sentence.

CHAPTER TWENTY

CRIMINAL PROCEDURE AGAINST LEGAL ENTITIES

Article 20.1. Conducting criminal proceedings of criminal case allegedly committed by a legal entity

1. In resolving the criminal cases committed by the legal entity, special rules stated in this Chapter shall be applied in addition to usual rules stated in this law.

2. Criminal proceedings of a crime allegedly committed by a legal entity shall be conducted together with criminal proceedings of the official who represents the legal entity or the person who acted on behalf of the legal entity for the interests of such legal entity.

3. Criminal proceedings of a crime allegedly committed by a legal entity can be commenced regardless any responsible person is accused of the same crime or not.

Article 20.2. Representing a legal entity in the criminal procedure

1. The following persons shall not represent the legal entity in the criminal procedure against such legal entity:

1.1. if a person is taking part at the trial as the witness who testifies against the legal entity;

1.2. if the person representing legal entity is also an accused of the crime.

2. If there is no representative of the legal entity except the accused, section 1.2 of this Article shall not apply.

3. The court, prosecutor, and investigator shall notify in writing to the legal entity to appoint another person as a legal representative of the legal entity within the set period if there is no person to represent the entity.

4. If the legal entity fails to appoint a legal representative within the set period, the court and prosecutor may appoint a legal representative for the legal entity.

5. The court, and prosecutor shall send notification to the relevant organizations not to change or modify the state registration, permission, license, and other similar information of the legal entity during the criminal procedure.

Article 20.3. Rights and duties of the legal entity

1. Legal representative of the legal entity shall exercise the rights and duties of the accused as stated in this law.

Article 20.4. Advocate of the legal entity

1. Legal entity may have an advocate. Advocate of the legal entity shall exercise the rights and duties stated in this law.

Article 20.5. Delivery of document to the legal entity

1. Decision of the court, prosecutor, and investigator in relation to the criminal procedure and other documents shall be delivered to the address of the legal entity or shall be handed over to the legal representatives of the legal entity.

2. In delivering the decision of the court, prosecutor and investigator and handing over documents, rules set forth in Article 11.9 of this law shall be conformed.

Article 20.6. Sentencing recommendation and court decision

1. Sentencing recommendation and court decision connected to the criminal cases allegedly committed by a legal entity shall include the following additional parts:

1.1. the name of the legal entity;

1.2. official address of the legal entity.

CHAPTER TWENTY ONE

DEALING WITH SEIZED PROPERTY, INCOME, AND EVIDENCE

Article 21.1. Storing property, income, and physical evidence seized

1. The court, prosecutor and investigator, and authorized official shall be responsible for keeping and protecting of seized property, income, and physical evidence.

2. Seized property, income, and physical evidence shall be stored in special premises and relevant document shall be attached to the case file until the court decision comes into force, or the order of accusation is annulled, otherwise the period for submitting appeal or complaint against the decision on repealing the criminal case expires.

3. When national or foreign currencies are seized, it shall be placed in special bank accounts.

4. Based upon the request of participants about storaging of seized property, income, and items, the court or prosecutor may specify the place of storage in their decisions.

5. In case national or foreign currencies that contain the traces of a crime, are seized as evidence, then the regulation stated in section 3 of this Article shall not be applicable.

6. If seized income, property, physical evidence, and objects of expert analysis require special storage condition, those can be stored at different institutions based upon proposal of the court, prosecutor, investigator, authorized official, and/or expert witness of expert organization.

7. Institution and officials who are obliged to ensure storage, protection, and supervision of seized property, income, physical evidence, and objects of expert analysis stated in section of this Article shall be responsible for the soundness thereof.

Article 21.2. Sealing of property

1. For the purpose of securing reimbursement for loss, redressing the damage, and ensure the enforcement of coercive measures of seizing property and income, property of accused and defendant can be sealed by the decision of the court and prosecutor.

2. If the physical evidence seized by order of court and prosecutor is unable to be stored due to large size or for other reasons, the investigator shall seal them on the place of existence.

3. After sealing a property, the transfer, destruction, change, disposal, or movement of such property should prohibited and duty of protection and storage shall be imposed on the possessor or to other persons as available.

4. Investigator shall assign the property to the individual stated in the section 3 who is responsible for keeping and protecting such property and shall explain his/her legal obligations and have the evidencing document signed.

5. Products of essential daily needs stated in the Law on Enforcement of Court Decisions shall not be sealed during the sealing of properties.

6. Sealing of property can be executed simultaneously with the seizure and search.

Article 21.3. Length of keeping property, income, and physical evidence in seizure

1. Seized property, income, and physical evidence shall be stored untill the court decision comes into force or the period for submitting appeal or complaint against the decision on repealing the criminal case expires.

2. If the dispute over the possession of seized property, income, and physical evidence is subject to civil court procedure, they shall be stored until the civil court decision comes into force.

Article 21.4. Delivery of seized property, income and physical evidence

1. When a criminal case is transferred to the other investigator or to court, seized and sealed property, income, and physical evidence shall be delivered together.

2. If it is unable to deliver property, income, and physical evidence due to large size or for other reasons, they shall be kept until the court decision is made, and evidencing document shall be attached in the case file.

3. In case an object of expert analysis cannot be delivered or transported to the expert witness, the authorized organization and official who appointed the expert shall be obliged to ensure that expert witness is allowed to freely enter the place of the object and is provided with all necessary conditions to conduct expert analysis.

Article 21.5. Resolving seized, sealed property, income, and physical evidence

1. If prosecutor made a proposal that property, income, and physical evidence are reasonably believed to cause toxic effect on human health, environment, animals, and livestock or to affect the public security, or property, income, and physical evidence may quickly detoriate, degrade, get damaged or destructed before the case is resolved, but such property, income, and physical evidence should not be returned to their possessor, then, the court shall make one of the following decisions if the court considers the proposal of prosecutor as reasonably grounded:

1.1. transfer to the respective institution for the designated purposes;

1.2. transfer to respective institution for storage;

1.3. sell and deposit income of sales in the special account;

1.4. transfer to respective institution for disposal or destruction.

2. In case property, income, and physical evidence is transferred, sold, or disposed according to section 1 of this Article, the court shall make a decision to give items of same type and quality to the possessor or to pay the price.

3. Prosecutor and specialists shall participate in the operations stated in section 1 of this Article, and they shall take all necessary notes and attach the list of property, income, physical evidence that are sold, transferred, and/or disposed in the case file.

4. Biological evidence such as blood, semen, saliva, urine, gastric fluid, hair, nail, bone and organs and tissue which degraded in quality and/or lost their analytical importance or of which sample was taken into archive shall be disposed of by the forensic organization upon the permission of the prosecutor afther the analysis.

5. Expert witness shall inform of destruction, disposal or transfer for destruction, disposal implemented according to section 4 of this Article to the prosecutor.

6. Procedural rules for receiving, keeping, storing, transferring materials of criminal cases, property, income, and physical evidence, or returning property, income, and physical evidence to the possessor or seizing them as the state income, and procedural rules for actions stated in sections 1.1, 1.2, 1.3, and 1.4 of this Article shall be approved jointly by the Chief justice of the Supreme Court, and the Attorney General of Mongolia. When prosecutor made decision to close an inquiry case or to repeal a criminal case, the prosecutor shall submit proposal to court about returning seized, sealed property, income, physical evidence and other similar items to the possessor or seizing them as the state income and to have such actions taken by court decision.

/This section was amended by the law dated January 10, 2020/

PART V

RULES OF INVESTIGATIVE OPERATIONS

CHAPTER TWENTY TWO

COMMON GROUNDS FOR INVESTIGATIVE OPERATIONS

Article 22.1. Investigative operation

1. During the inquiry and investigation stages, the investigative operations shall be held and evidence shall be collected and authenticated according to this law by the investigator.

2. Investigative operation shall consist of the operations to be executed under permission of the prosecutor and independent investigation of the investigator.

3. When the investigator performs operations including undercover examination, search, seizure of document, control, limit, oversee property movement and transfers, control through the communication network, getting the content of information in the communication network from respective service providers, getting information about the user of communication device, his/her location, equipment, and access from a respective service provider, getting information that is not relevant to; content passed through the communication network from respective institutions, limiting the possibilities to access to a communication network, collecting biological samples from human body, commissioning mental and physiological analysis, analyzing the deceased individual, analyzing a buried body, demanding section of information and data, making investigative purchase, undercover experiment for investigation, undercover observation/surveillance and finding through identification, only with permission of the prosecutor.

4. Operations except those stated in section 3 of this Article, shall be independently carried out by the investigator.

5. Investigators shall submit a proposal on executing the operations stated in section 3 of this Article to the prosecutor.

6. After receiving the prosecutor's rejection from the proposal made according to section 5 of this Article, the investigator may appeal the decision to the upper-level prosecutor within 48 hours after the receipt of the decision.

7. Before commencing investigative operations, the investigator shall be obliged to explain the rights and responsibilities to all parties of the operation and give opportunities to exercise their rights.

8. Section 7 of this Article shall not apply to the undercover investigative operations.

9. Investigator, prosecutor and the court shall inform relevant advocates within a feasible period about the place, time of criminal operations which mandatorily require advocate's participation.

10. Rules of investigative operations shall be approved by the Prosecutor General of Mongolia.

Article 22.2. General grounds for giving prosecutor's permission

1. If there is a legal ground for carrying investigative operations as stated in this Law, the investigator shall submit a proposal to execute such operations stated in section 3 of Article 22.1 to the prosecutor at any stage of the criminal proceeding, and a participant shall submit a proposal in writing about commencing investigative operations stated in sections 3 and 4 of Article 22.1 to the investigator.

2. The investigator shall present the proposal stated in section 1 of this Article to the prosecutor within 24 hours.

3. The proposal stated in section 1 of this Law shall not apply to undercover investigative operations.

Article 22.3. Prosecutor's permission

1. The proposal of the investigator on executing the investigation stated in section 3 of Article 22.1 of this Law shall include the following:

1.1. name of proposing investigator;

1.2. type of operation;

1.3. the goal and grounds for operation;

1.4. individual, legal entity, organization or facility to be involved in the operation;

1.5. the place of operation, and position of residence or location of land to enter or to be used to pass;

1.6. time and period of the operation;

1.7. reasonable grounds if the operation is executed during nighttime.

2. After receiving the proposal stated in section 1 of this Article, the prosecutor shall make a decision to give permission or not.

3. Permission of the prosecutor for the operations stated in section 3 of Article 22.1 of this Law shall include the following:

3.1. name of operation;

3.2. the goal of operation;

3.3. organization and official to execute the operation;

3.4. the place of operation, and position of residence or location of land to enter or to be used to pass;

3.5. individual, legal entity, organization or facility to be involved in the operation;

3.6. time and period of operation;

3.7. measures of ensuring human rights to be taken during operation;

3.8. the valid duration the permission;

3.9.name of the prosecutor, and date.

4. Prosecutor's permission for undercover investigative operation may limit information stated in section 3 of this Article in order to ensure the confidentiality of state secrets.

5. In case the place, location, or period is changed for the operation to be executed with permission of the prosecutor, the investigator shall promptly notify it to the prosecutor except for urgent circumstances.

6. Prosecutor's permission stated in section 3 of this Article may include whether the operation can be executed during nighttime, whether the public movement will be restricted, and whether a copy of the permission should be handed.

Article 22.4. Investigative operation executed without permission of the prosecutor

1. In an urgent circumstance, investigator may execute the investigative operation stated in section 3 of Article 22.1 of this law without seeking permission of prosecutor.

2. Before executing operation stated in section 1 of this Article, investigator shall notify it immediately in wrting to the prosecutor and shall submit a proposal to validate the operations together with clear reasons for urgent operations within 24 hours after the operations.

3. After receiving document and explanations specified in section 2 of this Article, the prosecutor shall make decision within 24 hours whether the investigative operation to be validated or not.

4. In order to clarify if there was a reasonable risk that evidence would be damaged, destructed, transported, or concealed unless the operation is executed urgently, the prosecutor may get testimony from persons involved in the operation and demand the investigator to provide additional document and materials.

5. After reviewing the evidence and explanation submitted by the investigator, prosecutor shall make one of the following decisions:

5.1. validate the investigative operation;

5.2. invalidate the investigative operation and evidence.

6. Prosecutor's decision stated in section 5.2 of this Article shall indicate that seized property, items, and document should be returned to the possessor.

CHAPTER TWENTY THREE

PAT DOWN SEARCH AND INVESTIGATIVE EXPERIMENT

Article 23.1. Pat down search

1. For establishing the circumstances of the crime, finding traces and physical evidence, and clarifying the circumstances significant to the crime, the investigator shall execute the pat down search of an individual, items, objects, documents, vehicles, luggage, animal and livestock, and examination of a crime scene.

2. Items to be searched may be taken on voluntary basis from the related individual, searcher may look at the surface of the individual's body or grope by hand, or use special devices for the search.

3. In case search requires longer period of time, the search can be made at the organization that carries out inquiry and investigation in order to meet with the goal of the criminal proceeding.

4. If pat down search is necessary or pat down search may be obstructed, items and vehicles can be moved for executing the pat down search.

5. During the pat down search of items, objects, documents, cargo, animal, livestock, and vehicles, it shall ensure that the owner is present. In case it is impossible to ensure the presence of the owner, two third party witnesses shall be present or the pat down search shall be documented by audio-video recording.

6. If pat down search is executed without presence of the possessor, it shall be notified to owner within three days or it shall be notified to the Governor of relevant bagh or khoroo if communication with the possessor is unavailable.

7. In case there is a need for urgent collection of mould or sample, sealing, and seizure during the pat down search, such actions shall be executed in compliance with rules stated in Article 22.4 of this law.

8. During the pat down search of vehicles and other equipment, parts thereof may be disassembled when necessary.

9. A pat down search may be executed secretly upon the permission of prosecutors.

10. Sections 5 and 6 of this Article shall not apply to the secretly executed pat down search.

Article 23.2. Pat down search of an individual

1. When it is reasonably suspected that the trace and/or specific features of a crime is on the body of an individual or an individual is carrying items and/or documents important for resovling the case, the individual can be pat down.

2. During pat down search of an individual, his/her clothes, carrying items can be searched too, and vehicles or other transportation can also be searched.

3. If it is necessary to undress or grope the individual by hand during the pat down search, a same sex official shall execute the pat down search. If necessary, a physician and/or nurse can be involved in the pat down search.

4. The pat down search that requires undressing or grope the individual by hand shall be executed in a separated environment that meets requirements of protecting person's health, security, dignity, reputation, and privacy.

5. During the pat down search that requires undressing an individual, the presence of others shall be prohibited except those stated in section 3 of this Article.

Article 23.3. Crime scene examination

1. If the investigator reasonably believes that the crime has been committed or might be committed there, the investigator shall execute crime scene examination by determining a dwelling, other places, or part of a public areas as crime scene in order to identify potential evidence and clarify circumstances that are important for detection of the crime.

2. In addition to a dwelling and other places determined as the crime scene, the scope of examination shall cover individuals, items, objects, documents, vehicles, animals, livestock, and corpse inside the protection zone of crime scene.

3. During the crime scene examination, the investigator shall take the following measures:

3.1. set the protection zone for the crime scene and take protection measures, and terminate the protection;

3.2. ensure security of himself/herself and others in the crime scene;

3.3. notify the owner, residents, and where necessary to other people about about the protection zone of crime scene, or place signs that can be understood clearly;

3.4. prohibit individuals who were at the crime scene or entered in the crime scene to leave the scene until the end of the examination, and prohibit to communicating with others and each others, and demand them not to obstruct the operation;

3.5. prohibit entering of individuals and vehicles to the crime scene or limit the exit from the crime scene, and demand leaving or coerce to leave the protection zone;

3.6. Inspect the identification documents of individuals who are in the protection zone or the crime scene, pat down search of an individual, items, and vehicles;

3.7. detect, collect, and authenticate trace, physical evidence and seize, seal, or keep any items wholly or partially;

3.8. collect mould and/or samples from human body, items, animal, livestock and corpse at the crime scene;

3.9. demand to unlock locked items which contain traces of a crime;

3.10. make audio-video recordings and take photos to authenticate the crime scene and conditions of items at the crime scene;

3.11. prevent from loss of information classified as state or private secret, and protect from disposal and destruction of properties.

4. If deemed necessary, take measures to provide medical and psychological first aid to the victim and other persons at the crime scene and reflect such actions in the notes taken.

5. If investigator considers necessary, a specialist may be brought into the examination.

6. In case investigator encounters demand to take measures stated in sections 3.6 and 3.8 of this Article, such measures shall be taken according to the rules set forth in Article 22.4 of this law.

Article 23.4 Post-mortem examination

1. Investigator shall examine the surface of a body, clothes, belongings, and documents.

2. During the post-mortem examination,an expert witness or medical doctor shall participate.

3. Before transporting or undressing the corpse, general condition of the corpse shall be documented by photo and audio-video recording.

4. Minutes of post-mortem examination shall include age, sex, length, weight, form of body, organs that are present, clothes, birthmark, injuries, scars, other unique identification, type, form, location, size of injury, any changes, and characteristic, including anatomical, mobility or death related, characteristics.

5. In case investigator exhumes a corpse from the place of burial, investigator shall have permission of the prosecutor and exhumation shall be executed with the presence of a forensic expert.

6. Third party witness can be involved in the operation stated in section 1 of this Article.

7. The operation stated in section 1 of this Article shall be documented by audio-video recordings.

8. Before conducting expert analysis on the corpse that is exhumed, the post-mortem examination stated in this Article shall be executed.

Article 23.5. Investigative experiment

1. An investigative experiment can be carried out by the investigator if it is necessary to reproduce certain circumstances and events that are important for resolution of the case.

2. Two individuals shall be present during an investigative experiment as third party witnesses, and a defendant, victim and witness may be allowed to participate. If necessary, assistance from other institutions and specialists shall be invited.

3. It is prohibited to ask leading or suggestive questions from a person participating in the investigative experiment.

4. In the investigative experiment, it is prohibited to defame reputation and dignity of an individual, to cause damage to life and health, and instigate others to commit a crime.

5. Investigator may execute undercover investigative experiment upon the permission of prosecutor.

6. Section 2 of this Article shall not be applicable to undercover investigative experiment.

CHAPTER TWENTY FOUR

SEARCH AND SEIZURE

Article 24.1. Search

1. If there are sufficient grounds to believe that physical evidence, evidencing items, and written evidence of a case or the individual and items searched for are there, the investigator shall search the dwelling, other places, and body specified in the permission of the prosecutor.

2. Before the search, the investigator shall provide opportunity to voluntarily give items and documents, and indicate the person searched for to the person subject to the search.

3. In executing a search, rules set forth in sections 2, 3, 4, 5, 6, 7 and 8 of Article 23.1 of this law shall be complied with.

4. It is prohibited to execute search to discover items not stated in the permission of prosecutor. When object of the search is discovered, the search shall be stopped immediately.

5. If items that are prohibited to possess, use, store, and carry by persons and legal entities were found during the search, those shall be seized and reflected in the note.

Article 24.2. Body search

1. In case it is reasonably believed that a person is hiding an important item for the resolution of the case, investigator shall execute body search upon the permission of prosecutor.

2. Body search may be executed using special tools and devices.

3. Body search procedures shall be executed in compliance with the rules stated in Article 23.2 and 24.1 of this law.

4. Upon the following grounds, body search may be executed without permission of prosecutor:

4.1. during arrest and pre-trial detention measure;

4.2. it is reasonably believed that a person who were in the dwelling or other places subject to the search is hiding item or document that are important for the resolution of the case.

Article 24.3. Search in dwelling and other places

1. During the search in dwelling and other places permitted by prosecutor, the investigator may enter the place, open any locked items, and detach or disassemble wall, floor, or ceiling when necessary.

2. During the search in dwellings and other places, rules set forth in Article 23.3 of this law shall be complied with.

Article 24.4. Seizure of physical evidence

1. Investigator shall temporarily seize the physical evidence upon the permission of prosecutor.

2. Physical evidence that contains state secret information shall be seized after notifying to the leader of the respective organization.

3. For the items sent by postal and telegraphic service, investigator may examine or seize upon the permission of prosecutor while the item is at the postal and telegraphic organization.

4. Before starting the seizure of physical evidence, investigator shall introduce the prosecutor's decision about seizure and allow the respective person to voluntarily give or indicate the physical evidence to be seized.

5. During the seizure specific unique items, valuables, and historic and cultural artifacts, assistance of a specialist can be involved.

6. Documents shall be seized as original or the original shall be returned to the owner and a copy can be attached to the case file when necessary.

7. List if seized physical evidence and notes of seizure shall be signed by person whose items are seized and by person attended during the seizure, and copy shall be given to the owner of items or his/her legal representative or advocate.

8. The seizure of physical evidence shall be executed in compliance with rules set forth in articles 24.1, 24.2 and 24.3 of this law.

9. In case electronic evidence that is important for the case cannot be copied or access and deletion of such document is not limitable, the electronic device may be seized.

10. The seizure explosives and toxic substances can be executed with the presence of a specialist or such seizure can be performed by a professional organization.

Article 24.5. Provision of information and documents

1. Investigator shall have necessary information, and documents provided by relevant organization, official, or individual upon the permission of prosecutor in case those are relevant to state secret and confidentiality or personal health and correspondence.

/This section was amended by the law dated January 10, 2020/

2. Investigator can also have information and documents other than those stated in section 1 of this Article provided by relevant organization, official, or individual.

/This section was amended by the law dated January 10, 2020/

3. The organization, official, or individual stated in section 2 of this Article shall provide the information and documents stated in the prosecutor's decision within the given period, and shall keep confidentiality.

CHAPTER TWENTY FIVE

INTERROGATION, CONFRONTATIONAL INTERROGATION, VERIFICATION OF TESTIMONY, AND VISUAL IDENTIFICATION

Article 25.1. Interrogation

1. An interrogation of the witness, victim, civil claimant, civil respondent, expert witness, suspect and accused shall be complied with common rules set forth in this Chapter.

2. Investigator shall conduct interrogation in the room that satisfies the requirements of interrogation. The person may be interrogated in the place where he/she stays when necessary.

3. Investigator may summon the individual to be testified and expert witness for interrogation according to articles 12.1 and 12.2 of this law, or may coercively bring them for interrogation according to Article 12.3 of this law.

4. Individuals subject to interrogation shall be kept and interrogated separately, and the investigator shall take measures to ensure that individuals to be interrogated for same case have no opportunity to communicate with each other.

5. Before starting the interrogation, investigator shall check personal identification documents of the individual to be interrogated and explain the purpose of the interrogation, then shall introduce name of the prosecutor made decision to summon and date of such decision, and explain his/her rights and duties, and a reflect such processes to the note of the operation.

6. The investigator shall remind the individual to be interrogated about privilege against self-incrimination and right to refuse to testify against family members, parents, and children, and shall explain that deliberate false testimony is punishable under the Criminal Code of Mongolia.

7. In the interrogation, the testifier shall tell the circumstances of a case known to him/her which are important for resolution of the case. After that, clarifying questions may be asked in connection to what was told.

8. Testifier can use documents and/or recordings. Items, hand drawings, tabled information, and pictures used during interrogation by the testifier can be attached to the notes and it shall be reflected in the note.

9. During the next interrogations, the investigator may display evidence, documents, and other physical evidence to the testifier in connection to the previous interrogations, and such process shall be reflected in the note.

10. In case translator and interpreter participate in the interrogation, their rights and duties shall be explained, and punishment for the deliberate incorrect and false translation/interpretation shall be reminded, and they shall sign on the note.

11. In case it is impossible to have an interpreter during an interrogation of a person with speaking and hearing disabilities, questions may be asked and answered in writing upon the permission of such the person.

12. Except the urgent circumstances stated in law or in case the testifier makes requests, it shall be prohibited to interrogate a person during nighttime.

13. Leading or suggestive questions shall be prohibited during a interrogation.

14. Interrogation process may be authenticated by notes, audio, video or audio-video recordings.

15. When the testimony is to be authenticated by audio, video or audio-video recording, it shall be notified to the testifier in advance.

16. If a testifier requests, an opportunity to write down the testimony shall be given and this shall be recorded in the notes.

17. Requirements for the interrogation room stated in section 2 of this Article shall be approved by the Prosecutor General of Mongolia.

Article 25.2. The length of interrogation

1. Interrogation may continue for up to 4 hours, and if it takes longer, 1 hour of break should be taken. Total length of a separate interrogation shall not exceed 8 hours.

2. Interrogation of a juvenile may continue for up to 2 hours, and if it takes longer, 30 minutes of break shall be taken. Total length of a separate interrogation of a juvenile shall not exceed 4 hours.

Article 25.3. Interrogation of under 18 years old person

1. Before interrogation of a person under 18 years old, the investigator shall explain the importance of testifying all he/she knows about the case correctly. Victim and witness under 16 shall not be warned of the liabilities for the deliberate false testimony.

2. In the interrogation of under 18 years old witness, his/her legal representative or relative and educator shall be present and they shall be explained of their rights and duties and this process shall be reflected in the note.

3. If is is reasonably believed that the rights of a testifier under 18 year old, the the presence of persons stated in section 2 of this Article may not be allowed and advocates shall be present during the interrogation.

4. Persons participating in the interrogation may ask questions from a witness under 18 years old.

5. With consent from investigator, legal representative and educator may clarify if the person under 18 years old understood the question clearly and may provide explanation.

6. After the interrogation, testimony shall be presented to participants verifying if it is written correctly, and get signed by such pershon.

7. It is prohibited to interrogate a person under 18 years old during nighttime.

Article 25.4. Confrontational interrogation

1. If there are serious differences in testimonies of two persons other than the accused, the investigator shall have the right to execute a confrontational interrogation between such previously interrogated persons.

2. In case witness, victim and other accused agreed confrontational interrogation requested by the accused, confrontational interrogation may be executed.

3. Before confrontational interrogation a witness and victim shall be reminded of responsibility for giving deliberately false testimony and this process shall be reflected in the note.

4. When starting an confrontational interrogation each testifier shall be asked whether they know each other and what relation they have to each other, then each of them shall be asked about circumstances to be clarified.

5. The persons being confronted may ask questions from each other upon the consent of investigator.

6. If the testimony given during confrontational interrogation is different than a previous testimony, the previous testimony shall be read after the testimony given by confrontational interrogation is recorded in note and explanations shall be taken.

7. Testimony of the persons interrogated during confrontational interrogation shall be written down in the record in the order in which it is given and each person interrogated shall sign each page of his/her testimony.

Article 25.5. Special rules of interrogation

1. In case witness, victim and expert witness are not able to appear and give testimony at the trial, prosecutor may assign investigator to interrogate such witness, victim, and expert witness using audio-video recordings if prosecutor considers that the proposal of investigator or request of advocate is reasonably grounded.

2. Operations stated in section 1 of this Article shall not restrict the rights to testify at the trial of witness, victim, and expert witness.

Article 25.6. On-spot verification of testimony

1. Testimony of a accused may be verified on the spot in order to verify new circumstances, traveled route or check the indicated place, or to compare and qualify the truthfulness of a previous testimony with permission of accused, or by the initiative of the investigator.

2. During the action set forth by section1 if this Article, the person whose testimony is being verified shall indicate some specific items, documents, or traces which are important for the case, and reproduce perform certain activities, or clearly explain his/her previous testimony in detail by indicating the role of items in the event being analyzed and how the spot of event has been changed.

3. After the testifier has freely spoken and reproduced activities, questions may be asked.

4. It shall be prohibited to verify testimonies of several persons at the same time and at the same spot.

5. Any interference, suggestion, reminder, or questions during the on-spot verification of a testimony.

Article 25.7. Visual identification

1. Investigator may have a person, animal, livestock, corpse, items, certain place, and dwelling visually identified by witness, victim, and accused.

2. The witness, victim, or suspect who is subject to visual identification shall be questioned beforehand about what features or singularities of a person, an animal, livestock, corpse, or an item such person will be able to identify, and the answer shall be reflected in the note.

3. If the witness, victim or accused who has identified and indicated the person, livestock, animal, item, place, or dwelling presented to such person, he/she shall be asked to explain by which features or singuliarities such person has recognized them and the answer shall be reflected in the note.

4. Leading or suggestive questions shall be prohibited to witness, victim or accused.

5. The process of visual identification shall be documented by note and audio-video recordings. The note shall include personal identity of witness, victim, and accused, and reflect the process of visual identification including the speech about a person, livestock, animal, item, and dwelling along with processes of other activities by word by word according to the order.

6. A person shall be identified from more than two other people.

7. The person to be identified shall be shown together with more than 2 persons with similar appearance. Before the identification, the person shall be asked to take a position among others, and the process shall be documented as note.

8. Visual identification may be executed without preparing special people in the public places and the witness, victim, and accused shall be asked if the person is there.

9. In the following cases in which visual identification is unable to be executed as stated in sections 7 and 8 of this Article, photo, audio, video or audio-video recording may be used for visual identification:

9.1. person to be identified may obstruct the visual identification;

9.2. appearance of the person to be identified has changed drastically;

9.3. physical appearance of such person is unavailable.

10. Animal, livestock, and items may be visually identified alone. When necessary, animals, livestock, and items may be identified from more than two other similar or alike animals or items.

11. Corpse may be identified visually from physical presence or from video footage or photograph.

12. In case victim, witness, and accused requests, opportunity to identify visually without seen or noticed by the person to be identified.

13. Visual identification can be executed secretly upon the permission of prosecutor.

CHAPTER TWENTY SIX

OTHER INVESTIGATION PROCESSES

Article 26.1. Control and restriction of the transfer and movement of property

1. In there is reasonable suspicion that the property or objects that can be used for crime or obtained as as result of crime or those important for the case would be concealed, destructed, or transferred to other's possession or ownership, the following measure shall be taken upon the permission of prosecutor:

1.1. controlling the movement, transfer, transaction of immovable and intangible properties, financial and debt instruments, state registration, copyrights, patents, certificates, licenses, permits, and vehicle registration; and monitor the flow of monetary assets deposited in banks and other financial institutions;

/This section was amended by the law dated January 10, 2020/

1.2. assigning relevant organizations to restrict movement, transfer, transaction of immovable and intangible properties, financial and debt instruments, state registration, copyrights, patents, certificates, licenses, permits, and vehicle registration, and freeze monetary assets deposited in banks and other financial institutions;

/This section was amended by the law dated January 10, 2020/

2. Operations stated in section 1.1 of this Article may be executed secretly upon the permission of prosecutor.

Article 26.2. Establishing surveillance over communication network

1. If the investigator considers that there is adequate grounds to have information and evidence that are important for the case, the investigator may take the following measures with permission of prosecutor:

1.1. have information provided by respective organizations including information about the owner, and user of communication network, their location, time, equipment, devices, and access used for the connection;

1.2. to have other information that is not relevant to the content of information passed through the communication network from respective organizations;

1.3. assign respective organizations to restrict the access to communication network;

2. Following operations may be executed secretly upon the permission of prosecutor:

2.1. Access to communication network and take surveillance measures.

2.2. have the content of information passed through communication network provided by respective organizations.

Article 26.3. Surveillance operations

1. In order to identify information and evidence that is important for the case, the investigator shall execute the following covert surveillance operations upon the permission of prosecutor:

1.1. enter dwelling and set surveillance equipment;

1.2. enter other places and set surveillance equipment;

1.3. Enter the vehicles and set surveillance equipment.

2. A surveillance shall be executed on other persons and objects when suspect, accused, or defendant flees.

Article 26.4. Observation

1. In order to identify the circumstances that might be important for the criminal proceeding, investigator may execute observation and covert observation on certain territories, public places, individuals, and objects.

2. Undercover investigative operation stated in section 1 of this Article shall be executed upon the permission of prosecutor.

Article 26.5. Delivery under surveillance

1. In order to detect crime, and identify the person or legal entity that committed the crime, investigator may execute surveillance on delivery of illegal or suspicious goods through the state border or passing certain areas upon the permission of prosecutor.

2. In case delivery under surveillance should be passed through the border or certain areas of the country, such operation shall be executed upon the permission of prosecutor in conformity with international treaties that Mongolia is a party to.

Article 26.6. Investigative purchase

1. In order to detect crime, and identify the person or legal entity that committed the crime, investigator may execute the investigative purchase of goods, services, banknotes, items, arms, substances and document or making deals to purchase upon the permission of prosecutor.

2. Goods, items and other documents purchased as part of undercover investigative operation shall be stored and safeguarded in compliance with rules set forth in Chapter Twenty of this law.

Article 26.7. Rules of undercover investigative operation

1. It shall be prohibited to execute the undercover investigative actions stated in section 2 of Article 26.2, and section 1.1 of Article 26.3 in urgent circumstances.

2. It shall be prohibited to carry our undercover investigative operation in a detention center except detecting crimes committed by organized crime groups or crimes stated in articles 10.1 /Homicide/, section 4 of Article 12.1 /rape/, section 2 and 3 of Article 17.1 /theft/, section 2 and 3 of Article 17.12 /theft of livestock/, Chapter 19 /Crimes against National Security/, Article 20.7 /Illegal usage of narcotic drugs and psychotropic substances/, Article 20.8 / Providing with accommodation for narcotic drug and psychotropic substance use/, and Article 20.9 / Misappropriation of narcotic drugs and psychotropic substances/, Article 20.10 /Illegal growing of plants with narcotic effects/, Chapter 22 /Corruption related crimes/, Chapter 29 /Crimes against security of the mankind and peace/ of the Criminal Code.

/This section was amended by the law dated January 10, 2020/

3. Undercover investigative operations stated in section 9 of Article 23.1, section 5 of Article 23.5, section 13 of Article 25.7, section 2 of Article 26.1, section 2 of Article 26.2, sections 2 of Article 26.3

and sections 2 of Article 26.4, Article 26.5, and Article 26.6 shall be executed by the authorized organization for undercover investigative operation or an investigator authorized by such organization.

4. Prosecutor's permission shall state the government organization, and other legal entities that should support the execution of the operation stated in articles 26.5 and 26.6 of this law.

6. Chairman of Central Intelligence Agency jointly with the Prosecutor General shall approve the rules of undercover investigative operations stated in section 9 of Article 23.1, section 5 of Article 23.5, section 13 of Article 25.7, section 2 of Article 26.1, section 2 of Article 26.2, sections 2 of Article 26.3 and sections 2 of Article 26.4, Article 26.5, and Article 26.6 of this law.

Article 26.8. Conclusion of the undercover investigative operation

1. Conclusion of undercover investigative operation which the investigator produces as stated in section 4 of Article 16.8, shall include the following:

1.1. name and position of the investigator;

1.2. number and date of the permission of prosecutors for the undercover investigative operation;

1.3. type of undercover investigative operation;

1.4. evidence discovered by the undercover investigative operation;

1.5. list of document and materials attached;

1.6. name and position of the prosecutor that approved the conclusion.

Article 26.9. Prosecutor's supervision over the undercover investigative operation

1. The Prosecutor General and a prosecutor that authorized by the Prosecutor General shall supervise the undercover investigative operation.

2.Prosecutor shall carry out the following supervision over the undercover investigative operations set forth in section 9 of Article 23.1, section 5 of Article 23.5, section 13 of Article 25.7, section 2 of Article 26.1, section 2 of Article 26.2, sections 2 of Article 26.3 and sections 2 of Article 26.4, Article 26.5, and Article 26.6 of this law:

2.1. if the operation is complied by investigator with legal grounds and rules set forth in the law;

2.2. registration of investigative operation and registration of equipment used in such operation are maintained according to respective rules;

2.3. issue or refuse to issue any permission during operations, extend the duration of operation or cease the operation within his/her legal powers;

2.4. to be introduced with respective information and materials and results of the undercover investigative operation;

2.5. review complaints about violation of human rights occurred during undercover investigative operation, and ensure liability is imposed on the guilty persons.

3. Operations stated in Article 4.3 of this law shall not be considered as supervision stated in this Article.

CHAPTER TWENTY SEVEN

EXPERT ANALYSIS

Article 27.1. Rules of expert analysis

1. The court , prosecutor and investigator shall appoint expert witness for the appraisal of the items and property or when it is necessary to be assisted by special expertise in the criminal proceedings.

2. Analysis shall be mandatory in the following cases:

2.1. identify the reason for a death of an individual when the death has external influence or there is suspicious condition;

2.2. identify the nature and characteristics of the damage inflicted to human health;

2.3. have mentality status identified if it is doubtful that witness, victim, suspect, accused, or defendant is capable of providing correct and truthful testimony by subjectively understanding the conditions of the crime;

2.4. identify the mental situation of defendant who is accused of a crime punishable by the life imprisonment sentence;

2.5. identifying age when document that can evidence age of suspect, accused and defendant is missing and it is important to identify such person's age.

3. Decision to appoint an expert witness shall indicate the grounds, expert organization, name of expert witness, question to be answered by the expert witness, duration of analysis, and information about the object to be analyzed.

4. Decision to appoint an expert witness shall be introduced to the suspect, defendant, accused, their legal representatives, and advocate.

5. In case the suspect, accused, and defendant are not capable of understanding the circumstances of the case due to mental illness, procedure of introducing such person with the decision about appointing an expert witness can be ignored.

6. It is prohibited to appoint an expert witness for the purpose of defining the application of law and providing commentaries on the clauses sections and articles of legislations.

7. Expert witness shall complete the expert analysis within the period set by decision of the court, prosecutor, and investigator and shall produce opinion.

8. If the expert witness is not able to complete expert opinion within the set period due to scope and specific features of the analysis, the expert witness shall submit a request for extension to the court, prosecutor, or investigator who appointed him/her.

Article 27.2. Rights of participants during the expert analysis

1. During the expert analysis, participants shall exercise the following rights:

1.1. make request about recusing from the expert witness;

1.2. ask additional questions from expert witness;

1.3. give additional documents to the expert witness and submit explanations;

1.4. be present during the expert analysis upon the permission of investigator or prosecutor

1.5. to be introduced with the expert opinion.

2. If it is considered that the request made by participant stated in sections 1.1, 1.2, and 1.3 of this Article is reasonably grounded, the court, prosecutor, and investigator may change or amend their decision about appointing an expert witness.

3. If the request from participants is denied, a decision with reasonable ground should be issued and introduced to all participants, and the process of introduction should be documented and signed by participants.

Article 27.3. Analysis by the forensic organization

1. The court, prosecutor and investigator shall deliver its decision to have analysis made by forensics organization together with the object to be analyzed.

2.Forensic organization shall assign an expert witness or team of experts to carry out analysis as soon as receiving the order from the court, prosecutor, or investigator.

3. Experts' team may include person does not work for the forensics organization but has special expertise.

4. In circumstance stated in section 3 of this Article, the forensics organization shall notify about inlusion of such person to the court, prosecutor, and investigator who made decision to have analysis.

Article 27.4. Expert analysis aside from the forensic organization

1. To have expert analysis, the court, prosecutor and investigator may invite individuals or organizations that have special expertise ability and have no private interests in the case.

2. In case the court, prosecutor and investigator appoints the person stated in section 1 of this Article, they shall verify the document that certifies the special expertise and check whether there is any ground for refusing from those individuals and clarify if the person is willing to work as expert witness in advance.

3. The court, prosecutor and investigator shall hand over the decision about having analysis to the person specified in section 1 of this Article and shall remind the rights and duties, then shall have their signature on the decision.

4. Costs associated with the expert witness shall be resolved according to rules set forth in this law.

Article 27.5. Analysis by team of experts

1. If it is considered that special expertise of several sectors are required, the court , prosecutor and investigator may have the analysis by a team of experts consisted of the experts of the same field or those of different fields.

Article 27.6. Expert opinion

1. Expert opinion shall include the following:

1.1. date and place of analysis;

1.2. grounds for analysis;

1.3. organization and official appointed the expert witness;

1.4. names, educational and academic qualifications, occupation, specialization, position, and practice of employment of the expert witness;

1.5. information about the object of analysis;

1.6. methods and methodologies, process, results of analysis, and question asked and answer provided by the expert witness.

2. If the expert witness discovers any important findings about the case, the expert opinion shall specify about it regardless such findings are asked or not.

3. Expert opinion shall be made in writing and shall be signed by expert witness. If several experts participated in the analysis and agreed on the final findings all of them shall sign on the expert opinion, however, relevant comments shall be attached to the expert opinion if an expert witness disagrees with any finding.

Article 27.7. Presenting the expert opinion

1. Expert opinion, or expert witness's comment about unavailability of producing expert opinion, and testimony of the expert witness shall be presented to participants.

2. Participants may submit request about disagreement with the opinion and comments of expert witness, providing relevant explations, asking questions from expert, or request for additional or repeated expert analysis.

3. The record of the process must specify whether the expert opinion, testimony, and comment of the expert witness is presented to the participants, and requests, and questions asked by participants and relevant answers.

Article 27.8. Additional and repeated expert analysis

1. In case the opinion of the expert witness who was appointed by the investigator is unclear, incomplete, or new circumstances arise in relation to the analysis, then the prosecutor and investigator shall assign the same expert witness or another expert witness to conduct additional expert analysis.

2. In case expert opinion is found doubtful, prosecutor shall appoint another expert for repeated expert analysis.

Article 27.9. Collecting mould and sample

1. For the analytical purpose, mould and samples may be collected from human body, corpse, organs thereof, livestock and animals, objects, items, and documents.

2. Security measures shall be taken in advance when collecting samples and molds from animals, livestock, explosive or toxic substances, and other dangerous objects.

3. Collecting molds and samples may be implemented during the investigative operations.

Article 27.10. Collecting biological samples from human body for analysis

1. The process of collecting biological samples from human body shall be conducted upon permission of prosecutor with the assistance of the expert witness or specialists.

2. If a respective person allows the process stated in section 1 of this Article, prosecutor's permission shall not be required.

3. When collecting biological samples from human body, it shall be prohibited to violate the human rights, deceive, threaten and use illegal ways and methods, and doing experiment on human body.

4. Biological sample collected from human body shall be deposited in the Unified Fund of Analysis in order to have the sample be ready for the investigative operation.

Article 27.11. Investigator's conclusion about expert analysis

1. In case investigator considers that the analysis stated in Article 27.1 of this law is not necessarily be conducted by expert witness and same outcome can be identified by investigative actions or such investigator can conduct such expert analysis within his/her own knowledge and expertise, the the investigator may issue a conclusion about expert analysis.

2. If the features of the object of analysis might be changed, destroyed, or damaged during investigator's analysis, an expert witness should be appointed.

3. Conclusion about expert analysis issued by the investigator shall include those stated in sections 1.1, 1.2, 1.4, 1.5 and 1.6 of Article 27.6 of this law.

4. If prosecutor considers the conclusion about expert analysis issued by the investigator as ill-grounded, the prosecutor, at his/her intiiation or based on the request of participants, may appoint an expert witness.

5. Investigator shall introduce his/her conclusion about expert analysis to the prosecutor and participants according to Article 27.2 of this law.

6. In making conclusions and presenting conclusions according to sections 5 and 6 of Article 6.2 of this law, rules set forth in this Chapter shall be applicable.

CHAPTER TWENTY EIGHT

NOTES OF INVESTIGATIVE OPERATIONS

Article 28.1. Taking note of investigative operations

1. During the investigation process, investigatory shall take minutes and shll reflect the process, order of acts, identified circumstances, measures taken, result and the in the note. In addition, the following shall be reflected in the note:

1.1. name and position of an officer who executed the operation and took the note;

1.2. place of operation, starting and ending date and time in hour and minute, reason for break or gap taken during the operation if available, and total length;

1.3. If executed upon the permission of the court and prosecutor, reference number of the permission and valid period;

1.4. reasonable grounds and supporting circumstances if executed as urgent circumstance;

1.5. given and family names of the participant and other persons who were present, their residential addresses;

1.6. information about the personal identification documents participant and other persons who were present;

1.7. information about explaining the rights and duties of the participants;

1.8. any request or compliant that was lodged by participants and other persons, and about how they were resolved.

2. the discussion of the testifier and participants of the investigative operation shall be written down as expressed by the first person form, word by word, according to the questions and answers.

3. the testifier may write down his/her own testimony and this process shall be reflected in the note.

4. The note of investigative operation shall include quantity, type, form, color, sample, specific appearance, quality, and weight of supporting items and documents, one by one or as a list for multiple items and documents, and shall be attached to the case file.

5. In the note, the way conduct themselves and behavior of the testifier and people participating in the investigative operation.

6. If other methods of investigation such as audio, video, audio-video recording, taking photos, making hand drawing, taking measures, taking mould from traces, taking prints, are used in compliance with the principles of criminal procedure, processes shall be reflected in the note and attached if possible.

7. In the note, the name, type, specification of equipment and devices used in investigative operation should be reflected and the length of audio, video, audio-video recordings and quantity of photos should be written.

8. The note of the investigative operation shall be signed by officials who executed the operation and took the note.

9. In case testimony of a person and/or evidence handed over during the testimony are not reflected in the note or content of the testimony is changed, but the request for correction is not accepted, the testifier shall write about it at the end of the note by hand or with assistance from other if he/she is not able to write.

10. Rules of taking the note of the undercover investigative operations stated in section 9 of Article 23.1, section 5 of Article 23.5, section 13 of Article 25.7, section 2 of Article 26.1, section 2 of Article 26.2, Article 26.3, section 2 of Article 26.4, Article 26.5 and Article 26.6 shall be regulated by the rules set forth in section 6 of Article 26.7 of this law.

Article 28.2. Audio-video recording

1. Investigator shall document the following investigative operations by photo or audio-video recordings:

1.1. operations would be executed in the dwelling and other places when the possessor is absent;

1.2. crime scene examination;

1.3. temporary seizure of items;

1.4. sealing property;

1.5. if any third-party witness is unable to attend in the investigative operation that requires the attendance of third-party witness.

2. Process and results of investigative operations other than those stated in section 1 of this Article can be authenticated by audio-video recording.

3. Before commencing the investigative operation, the investigator shall notify about taking audio-video recording to the participants of the operation and shall introduce the designated purpose of the recording.

4. Investigator shall ensure all necessary conditions of the continuity of non-stop audio-video recording during the investigation. If the audio-video recording is interrupted, it shall be notified to persons participating in the operations and investigative operation shall be paused. Such interruption should be clearly reflected in the note.

5. Audio-video recording must include the goal, date, location, starting and ending time.

6. Investigator and prosecutor shall be responsible for the safety and soundness of the audio-video recording.

Article 28.3. Introducing the note of investigative operation

1. When the investigation is complete, minutes of investigation shall be introduced to the participants, and get it signed by them. If the minutes contain multiple pages, persons participating in the operation shall sig on each page.

2. The note of the investigative operation shall be read out to or read by the participants and other persons during the investigative operation. In presenting the note, investigator shall warn to read and inspect well because the note of the investigative operation shall be attached to the case file.

3. When being introduced the note of the investigative operation, participants of the operation shall inspect if processes of such operation is recorded according to the sequence, and the circumstances, measures, and results of the operation are reflected fully and correctly.

4. If the participant or other person who was present in the operation requested to fix or correct any missing, incorrect, or unclear entry to the note to investigator, the investigator shall add the note by specifying how the request is satisfied.

5. Template of the note of investigative operation shall include a section where comments and requests of testifier should be written.

6. In case a participant of the investigative operation is unable sign on the note due to reasonable excuse, the investigator shall record relevant comments and attach it to the note.

PART VI

INQUIRY AND INVESTIGATION

CHAPTER TWENTY NINE

THE GENERAL CONDITIONS OF INQUIRY AND INVESTIGATION

Article 29.1. Rules of extending inquiry and investigation

1. When extending period for inquiry and investigation, the prosecutor shall take into account previous investigative operations, grounds for extension, and investigation operations necessary to carry out during extension.

2. Investigator shall issue an order to extend the duration of inquiry or investigation, and shall submit the order to the prosecutor at least 7 days from the end of current period.

3. In case the prosecutor returned a case for additional investigation or restored previously suspended investigation, case of which the order of accusation was annulled, or a repealed case, then the duration of investigation or inquiry shall be counted continuously from the previous period, and such period can be extended under the rules of usual ёжштшийл procedure.

Article 29.2. Consolidating or separating criminal cases

1. In case several persons have committed one or several crimes in complicity, or one person has committed several crimes, then each of such offensive acts shall be subject to separate inquiry, investigation, and accusation.

2. In case several persons have committed one or several crimes in complicity, or one person has committed several crimes, then such cases may be consolidated for investigation.

3. Unless it causes obstruction for full and objective investigation of a crime, crimes related to some accused can be separated.

4. In consolidating criminal cases, criminal act with less sever punishment shall be consolidated into the criminal act with more sever punishment.

5. When consolidating criminal acts with the same severity and type of punishment as stated in the Criminal Code, cases should be consolidated into the criminal case which was initiated before the others.

6. In case some criminal offences allegedly commited by an accused has not been proved as a result of investigation, each relevant order of accusation of such criminal offences should be annulled and should be separated and returned to inquiry as a separate criminal cases.

7. Consolidation and separation of criminal cases shall be implemented by reasonably grounded decision of prosecutor.

8. In case prosecutor considers that the guilt of an accused has been proved adequately during the investigation and the case can be furthered to the court, some criminal cases allegedly commited by the accused can be separated and furthered to the court.

9. If more than one inquiry cases were opened for single criminal action, such cases should be consolidated and inquired as a single inquiry case.

/This section was amended by the law dated January 10, 2020/

Article 29.3. Confidentiality of inquiry and investigation

1. Organizations and officials authorized to carry out inquiry and investigation shall ensure the confidentiality of plan, process, and result of the inquiry and investigation.

2. Investigator shall not disclose any state, corporate, or individual confidentiality that is known to him/her during the investigation, and shall take measures to protect relevant documents.

3. Investigator shall warn persons who participated in operations related to state, corporate, or individual confidentiality not to disclose such confidentiality and shall have a written guarantee issied by participants.

4. In case it is found the issue is relevant to state secret during the investigation, the investigator shall notify it to the head of authorized organization and shall get an officer responsible to be present.

5. Materials of the inquiry and investigation may be publicized only upon the permission of prosecutor and to the extent that prosecutor permitted for public.

Article 29.4. Cooperation

1. During inquiry and investigation process, investigator may cooperate with the investigation organizations and officials in the following ways:

1.1. exchange and retrieve information;

1.2. receiving support for inquiry and investigation;

1.3. jointly carry out the inquiry and investigation by the decision of authorized organization.

Article 29.5. Prohibited actions during inquiry and investigation

1. The following actions shall be prohibited during the inquiry and investigation:

1.1. defame human reputation and dignity, inflict damage to life and health of person, and torture;

1.2. execute investigation during nighttime except urgent circumstances and undercover investigative operations;

1.3. instigate others to crime and infringement.

Article 29.6. Measures to eliminate reason and cause of the criminal offense

1. When an investigation establishes causes and conditions facilitated the commission of a crime, investigator or prosecutor shall deliver to the concerned legal entity a statement to take measures to eliminate such causes and conditions. A copy of the statement shall be attached to the case file.

2. The legal entity shall be obliged to take the necessary measures within a period of 1 month, and to notify the investigator or prosecutor about it.

CHAPTER THIRTY

INQUIRY

Article 30.1. Inquiry

1. Inquiry means an operation carried out by the investigator during the period starting from the receiveal of complaint or information about crime and ending at the initiation of criminal case and accusation in order to detect the crime and identify the person and legal entity that committed a crime.

Article 30.2. Receiving information and complaint about a crime

1. For the following occasions, investigator and prosecutor shall receive information and complaint about crime and shall carry out inquiry:

1.1. individuals, legal entities and officials lodged a complaint about a crime or informed about crime;

1.2. on his/her own identified the nature and characteristics of criminal offense;

1.3. person who committed a crime appeared confessing a crime.

2. Prosecutor and investigator shall be obliged to receive information about crime committed or an intention, or a preparation to commit a crime.

3. When receiving information, informant shall be warned deliberately false information shall be subject to sanctions stated in the law.

4. if the receival of the information and compliant in crime is refused, the person who informed or complained may lodge a request according to rules set forth in Chapter Fifteen of this law.

Article 30.3. Lodging compliant and informing about crime

1. The complaint or information filed by a citizen on a crime can be in form of oral or written.

2. The complaint filed orally or by means of communication shall be recorded as a note, and signed by the person who has taken the note.

/This section was amended by the law dated January 10, 2020/

3. In a written information or complaint about crime, the person who informed or complained should sign.

/This section was amended by the law dated January 10, 2020/

4. Legal responsibility of making a deliberately false report must be explained to the person who files the complaint, and explaining process shall be reflected in the note which should be signed by such person.

/This section was amended by the law dated January 10, 2020/

Article 30.4. Report about crime submitted by legal entities and officials

1. Report about crime submitted by legal entities and officials must be in written form and relevant documents may be attached to it.

Article 30.5. Rewarding for information about crime

1. Organization responsible for investigation may publicly announce that following information shall be rewarded:

1.1. information about preparation, or intention of a crime, or a committed crime;

1.2. information about persons, items, vehicles and documents that are searched for.

2. In case individuals and legal entities requested a reward for information that is not publicly announced as rewardable, the head of the investigative organization shall resolve whether to reward for the information.

Article 30.6. Confession

1. A person who has committed a crime may voluntarily give information about a crime committed by him/herself orally or in writing.

Article 30.7. Inquiry of the information and compliant about crime

1. Upon reviewing the information or compliant about a crime, the following investigative actions can be taken within 5 days after the receipt of information or complaint if the investigator considers that it is necessary to identify criminal elements thereof:

/This section was amended by the law dated January 10, 2020/

1.1. execute pat down search or other type of examination;

1.2. collect samples, fingerprints, and trace moulds for analysis;

1.3. interrogate victim and/or witness;

/This section was amended by the law dated January 10, 2020/

1.4. seize vehicles, money, and other items that are important for the case;

1.5. seal properties.

1.6. appoint expert witness.

/This section was amended by the law dated January 10, 2020/

2. The following authorized officials shall execute investigative operations stated in section 1 of this Article in urgent circumstances and promptly transfer to the prosecutor:

2.1. investigator, officers of intelligence and anti-corruption organization in case it is reasonably suspected that crime is committed or being committed during the review of information and complaint;

2.2. captain of a ship or airplane that are carrying flag of Mongolia for crimes committed on board of ships or air planes that are outside of the border of Mongolia;

2.3. officer in charge of consulate affairs of diplomatic missions of Mongolia to foreign countries for crimes committed on land owned by a diplomatic representative office;

2.4. authorized official of a prison for crimes committed by prisoner on the land of the prison unit;

2.5. commander of a military unit for crimes committed by the military personnel in the territory of such military units;

2.6. authorized official of the border protection organization for crimes committed at the border line;

2.7. authorized officer of the military team for crimes committed between military personnels during the peacekeeping and other international operations;

2.8. state customs inspector for crimes revealed during the customs control and check-up.

3. Head of an investigation unit may extend the period stated in section 1 of this Article one time by 14 days when necessary.

/This section was amended by the law dated January 10, 2020/

Article 30.8. Decision to be issued after reviewing complaints and information about a crime

1. As sson as the investigator reveiws the complaint and information about a crime or after making one of the following decisions upon executing investigative operations stated in section 1 of Article 30.7 of this law, the investigator shall notify about the decision to the person who lodged complaint or informantion:

1.1. open an inquiry case;

1.2. submit a proposal to prosecutor about refusing from opening an inquiry case;

1.3. submit a proposal to prosecutor about transferring the case to the respective jurisdiction.

2. Authorized official shall submit his/her proposal to the prosecutor of proper jurisdiction requesting to execute the investigative operations stated in section 1 of Article 30.7 of this law and/or to have decisions set forth in section 1 of this law made.

3. The investigator shall submit the proposal stated in section 1.2 of this Article to the prosecutor within 72 hours.

/This section was amended by the law dated January 10, 2020/

Article 30.9. Opening an inquiry case

1. if the investigator opens an inquiry case, he/she shall promptly notify it to the prosecutor, get the inquiry case registered in the unified database of prosecutor's organization and shall introduce the relevant order to the prosecutor within 72 hours.

2. Opening an inquiry case shall serve as the grounds for commencing the criminal procedure stated in this law.

3. Investigator's order on opening an inquiry case shall include case number, title of a crime, time and place of a crime, and the grounds for opening inquiry case. It shall be prohibited to write the name of the person or legal entity allegedly commited the crime in the order. 4. In case prosecutor considered that opening an inquiry case had no legal ground, the prosecutor shall annul the order of the investigator.

Article 30.10. Refusing from opening an inquiry case

30.10 дугаар зүйл.Хэрэг бүртгэлтийн хэрэг нээхээс татгалзах

1. In case complaint and information about a crime does not contain ground to open a inquiry case or any circumstance in which criminal proceeding should not be carried out is satisfied, the prosecutor shall refuse from opening an inquiry case.

/This section was amended by the law dated January 10, 2020/

2. During the prosecutor's supervision stage or based upon the request stated in section 1.2 of Article 30.8 of this law, the prosecutor shall make decision to refuse from opening an inquiry case.

3. The person who complained and reported about a crime should be notified about the refusal from opening an inquiry case. If such person does not agree with the prosecutor's decision specified in section 2 of this Article, he/she may file a complaint to the the upper-level prosecutor within seven days from the date of receipt of the decision.

/This section was amended by the law dated January 10, 2020/

4. The prosecutor shall review the investigator's proposal to refuse from opening an inquiry case, and make decide within 7 days.

/This section was amended by the law dated January 10, 2020/

5. After reviewing the investigator's proposal to refuse from opening an inquiry case within the period specified in section 4 of this Article, the prosecutor shall make one of the following decisions if considers the proposal is ill-grounded:

/This section was amended by the law dated January 10, 2020/

5.1. to return the complaint and reports about a crime to repeated inquiry;

5.2 to open an inquiry case;

5.3. to accuse the accused.

Article 30.11. Transferring complaint and information about a crime to the relevant jurisdiction

1. If the issue specified in complaint and information about a crime is found to be out of the jurisdiction of received investigative organization, the investigator shall immediately submit a proposal to the prosecutor about transferring the case to the relevant jurisdiction.

2. In case information and complaint about a crime is transferred to the relevant jurisdiction, investigator shall take measures to cease the crime and protect, authenticate traces and evidence of the crime.

3. Prosecutor, on his/her initiative or consiering that the proposal of investigator as reasonably grounded, shall make a decision to transfer the case to organization of proper jurisdiction within 24 hours.

Article 30.12. Duration of inquiry

1. Principal duration of inquiry shall be 1 month from the opening of inquiry case.

2. Total duration of inquiry shall be within the statute of limitations specified in Article 1.10 of the Criminal Code.

3. Prosecutor may extend the duration of inquiry by up to 3 months each time.

4. Duration specified in section 1 of Article 30.7 of this law shall be included in the duration of inquiry.

Article 30.13. Completing the inquiry

1. Upon completion of the inquiry, the investigator shall submit the following proposals to the prosecutor within 3 working days:

/This section was amended by the law dated January 10, 2020/

1.1. close the inquiry case;

1.2. accuse the suspect.

Article 30.14. Closure of an inquiry case

1. If it is found that crime is not committed or the act or omission has characteristics of infringement, the investigator shall submit a proposal to close the inquiry case to the prosecutor.

2. If prosecutor considers the investigator's proposal as grounded, the prosecutor shall assign the investigator to close the inquiry case, and to transfer the case to the organization or official authorized to resolve infringement cases if the act or omission has characteristics of infringement.

3. If the prosecutor considers that the investigator's proposal to close the inquiry case is ill-grounded, the prosecutor shall make decision to return the case for additional investigation or to accuse

4. If the grounds set forth in section 1 of Article 1.5 of this law is found, the prosecutor, on his/her own initiative or upon the proposal of investigator, shall make a decision to close the inquiry case, and shall notify it to the victim, his/her legal representative, and advocate.

5. In case victim disagrees with the decision stated in section 4 of this Article, the victim may lodge a complaint to the upper-level prosecutor within 7 days after the receipt of the decision.

6. If the upper-level prosecutor considers that the inquiry case was closed without valid grounds, the upper-level prosecutor shall terminate the prosecutor's decision and may transfer the case to the relevant jurisdiction for inquiry or investigation.

7. If the victim or his/her advocate requests so, they shall have access to the inquiry case file after the decision about closing inquiry case is made.

Article 30.15. Delivering a proposal about accusation

1. In case it is found during the inquiry process that the conditions stated in Article 1.5 of this law not satisfied, it is reasonably believed that person or legal entity committed a crime, and location of such person or legal entity is clear, the investigator shall submit a proposal of accusation to the prosecutor.

2. After receiving the proposal stated in section 1 of this Article, the prosecutor shall make the following decision with reasonable grounds within 3 working days:

/This section was amended by the law dated January 10, 2020/

2.1. return the case for additional inquiry;

2.2. issue the order of accusation;

2.3. close the inquiry case.

Article 30.16. Returning the case for additional inquiry

1. In case prosecutor considers that the conditions to accuse a person or legal entity has not been established fully, the prosecutor shall return the case to the investigator for additional inquiry.

Article 30.17. Issuance of the order of accusation

1. In case prosecutor considers the proposal of the investigator stated in section 1 of Article 30.15 of this law as reasonably grounded, the prosecutor shall issue the order of accusation and have such decision registered in the unified database of prosecutor's organization.

2. If the location of person or a legal entity to be accused is clear in addition to the occoasion specified in section 1 of Article 30.2 of this law, and the inquiry is not necessary, then the prosecutor,

at his/her own initiative or based upon the proposal of investigator, shall issue the order of accusation and have such decision registered in the unified database of prosecutor's organization.

3. In the resolving section of the order of accusation, the name of prosecutor, position, title of a crime, time and place of a crime, given and family names of the suspect, and relevant article of the Criminal Code that determines the crime which the suspect is accused of. If a legal entity is accused as accused, the name of the legal entity shall be specified.

4. In the describing section of the order of accusation, the prosecutor shall reflect the list of evidence of the crime and amount of evidencing information included in each evidence.

CHAPTER THIRTY ONE

INVESTIGATION

Article 31.1. Investigation

1. Investigation means operation stated in this law executed for the purpose of establishing circumstances subject to proving within the period from the issuance of the order of accusation until the furtherance of the case to the court.

Article 31.2. Operations to be executed after the issuance of the order of accusation

1. The person who has been arrested according to this law or summoned to be introduced with

2. After issuance of the order of accusation, the prosecutor shall assign the investigator to summon the suspect and introduce the order.

3. When summoning the suspect to have the the order of accusation introduced, rules set forth in Article 12.1 of this law shall be applicable.

4. The prosecutor may postpone the time for presenting the order of accusation for up to 24 hours in case the suspect who received the summoning order immediately notified about reasonable excuse for being unavailable to arrive and submitted evidencing document.

5. In handing over the summoning order, time and minutes received the order shall be recorded and the order shall be signed by the recipient.

6. in case the suspect who is subject to introducing with the order of accusation has failed to arrive at the time of summoning without reasonable excuse, or refused to receive the summoning order, it shall serve as a ground to arrest the suspect upon the court warrant.

8. The summon of a suspect to be introduced with the order of accusation stated in this Article shall not be applicable to participants stated in Article 12.1 of this law.

Article 31.3. Presenting the order of accusation

1. Immediately after receiving a prosecutor's order of accusation, the investigator shall present the the order of accusation to the suspect by summoning him/her.

2. In case the suspect refused to be introduced with the order of accusation, the decision shall be read out to him/her and a note shall be taken. This process shall be authenticated by audio-video recording when necessary.

3. After the order of accusation is presented to the suspect, rights of the accused stated in Chapter Seven of this law, shall be explained and the explaining process should be reflected in the note and get signed by the accused.

4. Investigator shall execute the operations of determining personal characteristics of the suspect and interrogating the accused within 12 hours.

/This section was amended by the law dated January 10, 2020/

5. After introducing the order of initiating criminal case and accusation to the suspect, restraining measures can be taken if necessary.

Article 31.4. Arresting a suspect

1. The prosecutor, after receiving a proposal of the investigator about arresting the suspect, shall immediately further such proposal to the court for the following grounds:

1.1. if the suspect, without reasonable excuse, failed to arrive as summoned according to Article 31.2 of this law or the suspect refused to receive the summoning order;

1.2. suspect has fled or likely to flee when summoning order is delivered;

1.3. if it is reasonably suspected that the suspect will pressure or threaten the investigator, prosecutor, witness, victim and/or accomplices, or may damage the health and life of such persons by attacking;

1.4. If there are sufficient grounds to consider that the suspect committed the crime, and it is reasonably believed that the suspect will commit another crime or complete the commenced crime;

1.5. if the suspect probably destroy, alter, change, or falsify the evidence of the crime or unlawfully influence the victim, witness, and/or accomplices.

2. The prosecutor's proposal to arrest the suspect shall include the following:

2.1. name and position of the proposing prosecutor, date, and signature;

2.2. given and family names, residential address of the suspect;

2.3. grounds stated in section 1 of this Article and relevant evidence.

3. Within 24 hours after receiving a proposal of the prosecutor, the court shall decide whether to arrest the suspect or not.

4. The court warrant for arrest of suspect shall specify the following:

4.1. given and family names of suspect;

4.2. Grounds for arrest as set forth in section 1 of this article;

4.3. organization responsible for enforcement of the warrant for arrest;

4.4. issued date and time of warrant;

4.5. valid duration of the warrant;

4.6. signature and seal of the judge.

5. Duration of arrest under court warrant shall not exceed 48 hours.

Article 31.5. Arrest of suspect without court warrant

1. In the following cases, the investigator may arrest the suspect without a court warrant:

1.1. suspect arrested at the time of or right after committing the crime;

1.2. urgent circumstances stated in this law;

1.3. victim and witness directly identified as perpetrator;

1.4. the trace of crime is found on clothes, body, dwelling, items, and vehicle of the suspect.

2. Immediately after arresting the suspect, investigator shall notify it to the prosecutor, and the prosecutor shall immediately deliver the decision to arrest to the court.

3. In case investigator arrests the suspect according to section 1 of this Article, court shall make decision about it within 24 hours.

4. In case the investigator has established the grounds stated in section 2 of Article 30.17 of this law, the investigator, to the prosecutor, shall immediately submit the proposal to initiate a criminal case and accuse the suspect who was arrested without court warrant.

5. In case prosecutor considers the proposal of the investigator as grounded, prosecutor shall make decision within 6 hours after receipt whether to initiate a criminal case and accuse the suspect or not.

6. Prosecutor shall immediately release the suspect that is arrested illegally.

Article 31.6. Operations to be carried out after the arrest

1. Before presenting the arrest warrant issued by the court to the suspect or as soon as arresting the suspect if the suspect is arrested without such warrant, the investigator shall introduce the following to the suspect:

1.1. for what crime he/she is suspected;

1.2. right to legal assistance;

1.3. warn any act or statement made by suspect shall serve against him/her as evidence at the trial;

1.4. warn potential use of coercive measures according to law if the suspect fails to perform the duties stated in law.

2. In case of suspect is arrested by court warrant or after executing the operations set forth in section 1 of this Article, the investigator shall present the court warrant and its grounds to the suspect.

3. During or after the arrest of suspect, investigator shall execute a body search and seize the following items:

3.1. items that may pose danger to human health and life;

3.2. items and documents that may be used to flee;

3.3. items that may be obtained by criminal act, or items that may be used for committing a crime;

3.4. items and document that are important for resolving the case;

3.5. items and documents that are legally prohibited for persons and legal entities to possess, own, use, store and carry.

4. Within 6 hours after the arrest, investigator shall execute operations of determining personal characteristics of the suspect and to interrogation.

5. Within 6 hours from the arrest, the investigator shall notify about the arrest to over 18 years old family member of the suspect, advocate, or to the relevant diplomatic mission if the suspect is a foreign citizen.

6. Investigator may use coercive measures during the arrest according to rules and grounds set forth in the respective laws.

Article 31.7. Taking a note

1. When arresting the suspect, the investigator shall take a note to authenticate the process. If taking note is unable during the arresting operation, it shall be taken immediately after the operation.

2. In the note, the investigator shall reflect the following in addition to the process of arrest:

2.1. name and position of the investigator who made the arrest;

2.2. date and place which the arrest commenced;

2.3. time (in hours and minutes) when the suspect was introduced with his/her rights;

2.4. time in hours and minutes when arrested suspect is delivered to the detention center;

2.5. request and proposal made by the arrested suspect and how they were resolved;

2.6. indicate person to whom the arrest was informed, indicate place and time (in hours and minutes) informed so according to section 5 of Article 31.6 of this law.

3. Time (in hours and minute) when the suspect was introduced to his/her rights shall be reflected and get signed. In case the suspect was not able to sign or did not sign, the process shall be documented as note.

Article 31.8. Rights of suspects

/This section was amended by the law dated January 10, 2020/

1.A suspect shall have the following rights:

/This section was amended by the law dated January 10, 2020/

1.1. to be introduced with the grounds for arrest;

1.2. to be introduced with court warrant within the period set by law and to have a copy unless the arrest is executed without warrant of the court;

1.3. right to self-representation or access to advocate services, and to be provided with opportunities to communicate with his/her advocate and family members;

1.4. lodge complaint to the court about the decision of arrest and the process of arrest;

1.5. refuse to testify against oneself;

1.6. get medical assistance;

1.7. lodge complaint demanding reparation for the damages caused by illegal arrest;

1.8. lodge complaint about the illegal actions of authorized officials, investigator, and prosecutor.

2. Arrested suspect, his/her legal representative, and advocate shall exercise right to access to the order of accusation, to have copy such order and to have explanations about grounds for arrest given by the investigator.

Article 31.9. Counting the duration of arrest

1. The duration of arrest shall be counted from the time that court decision on arrest of suspect is introduced or from the time that section 1 of Article 31.6 of this law is introduced to the suspect if the suspect is arrested without a court warrant.

2. Investigator shall reflect about the time stated in section 1 of this Article in the note.

Article 31.10. Determining personal characteristics

1. Investigator shall execute the following operations in order to determine the personal characteristics according to section 4 of Article 31.3 and section 4 of Article 31.6:

1.1. check personal identification document, get additional information when necessary;

1.2. authenticate the face and appearance, body form, and other profiles by photograph, audio, video, or audio-video recordings;

1.3. authenticate fingerprint, palm print, or other forms and patterns;

1.4. collect biological sample from body for analysis when necessary;

1.5. execute body search;

1.6. conduct comparative analysis.

2. In case the suspect obstructs determining his/her personal characteristics, the investigator shall take coercive measures according to rules and grounds set forth in this law.

3. Information about determining of personal characteristics stated in section 1 of this Article shall be attached to the case file.

Article 31.11. Interrogating a suspect

1. Before taking testimony from the suspect, investigator shall introduce him/her for that crime he/she is testifying and shall explain the following rights:

1.1. right to refuse to testify against family members, parents, and children;

1.2. right to self-representation, select an advocate;

1.3. right to meet advocate in private and give testimony with presence of the advocate;

1.4. right to be interrogated in his/her mother language or a language with good command of;

1.5. get assistance from translator, and interpreter;

1.6. refuse from testimony;

1.7. challenge or recuse from investigator, prosecutor, translator, and interpreter;

1.8. other rights specified in Chapter Seven of this law.

2. Rules specified in articles 25.1, 25.2 and 25.3 of this law shall apply to interrogation of a suspect.

3. In case the advocate that the suspect selected fails to arrive within two hours, or suspect refuses to have an advocate, an advocate shall be involved according to section 2 of Article 5.3 of this law.

4. Rules stated in section 2 of Article 25.2, Article 25.3 and this Article shall apply interrogation of juvenile defendant who is arrested.

Article 31.12. Release of arrested suspect

1. Judge shall make a decision to release the suspect, which are arrested without warrant by court, in the following cases:

1.1. evidence of criminal offence is not satisfactory;

1.2. arrested in violation of section 1 of Article 31.5 of this law.

2. In case prosecutor's decision on initiating criminal case and accusation or court decision about pre-trial decision has not arrived within 48 hours from the arrest, the head of the detention center shall release the suspect by notifying it to the investigator, prosecutor, and judge.

3. When a suspect is released, the suspect should be provided with a document that certifies on what grounds, where, when, and upon whose decision the suspect was arrested and when and upon whose decision he/she was released.

4. When releasing the suspect, all items seized, except those prohibited to keep according to laws, shall be returned.

5. When releasing a juvenile suspect, he/she shall be transferred to one of his/her parents, guardians, caretakers, or legal representative.

6. Investigator shall deliver the note about release of a suspect and other materials related to the arrest to the prosecutor within 24 hours.

7. When releasing the suspect whose arrest was found illegal, the investigator, prosecutor, and court shall explain such suspect that he/she has a right to lodge a complaint demanding reparations for the illegal arrest according to this law.

8. Suspect who is released upon the grounds stated in section 1 of this Article shall not bear any obligations in relation to the criminal procedure.

Article 31.13. Duration of investigation

1. The duration of investigation shall not be extended if the duration equal to doubled the statute of limitations specified in section 1 of Article 1.10 of the Criminal Code has passed since the commission of the crime. If the investigation is suspended according to section 1 of Article 31.14 of this law, or the case is transferred to the prosecutor, the duration of investigation shall be interrupted. The duration of investigation shall continue from the time when a suspended case is reopened, or when a prosecutor returns a case to the investigator for additional investigation.

/This section was amended by the law dated January 10, 2020/

2. The duration of suspension of investitation under to this law shall not be included in the duration of investigation.

3. Investigation of less grave crimes stated in the Criminal Code shall be completed within 14 days, the investigation of grave crimes shall be completed within 1 month, and the materials of criminal cases shall be presented to the participants after the investigations.

4. Considering the situations including the complexity of the case, excessiveness of actions required, or if multiple accused or multiple criminal acts involved, the duration of investigation may be extended as follows:

4.1. the duration of investigation of cases supervised by the soum or Intersoum prosecutor's office may be extended by period of up to 5 months by a soum or inter-soum general prosecutor or senior intersoum prosecutor and by period of up to 7 months by general prosecutor of aimag;

4.2. the duration of investigation of cases supervised by the aimag prosecutor's or specialized prosecutor's office, prosecutor of aimag or the general prosecutor of the specialized prosecutor's office may extend by the period of up to 16 months;

4.3. the duration of investigation of cases supervised by the district prosecutor's office, general prosecutor of the district may extend by the period of up to 5 months, and general prosecutor of the capital city by the period of up to 7 months;

4.4. the duration of investigation of cases supervised by the capital city prosecutor's office can be extended by the general prosecutor of the capital city by the period of up to 16 months.

5. Any further extension of investigation period shall be resolved by the Prosecutor General.

6. Accused, his/her legal representative, and advocate shall submit their complaint the upper-level prosecutor if any investigative operation has not executed during the expended period of the investigation.

Article 31.14. Suspending or restoring the investigation

1. The prosecutor, upon the reasonably grounded proposal of the investigator, shall suspend the investigation in the following cases:

1.1. an expert opinion or a certification of a medical institution proves that the respective person is not able to appear due to mental disease or severe illness;

1.2. Accused has fled from investigation;

1.3. diplomatic immunity of the accused under the diplomatic or international organizations or other immunity of the accused stated in the law has not been suspended;

2. before suspending the investigation, investigator should have executed all investigative activities that can be exectued without presence of the accused and taken all measures to detect the persons who committed the crime and those who fled from investigation.

3. If the grounds for suspending the investigation of a case that accuses two or more accused, are not applicable to all accused, cases related to some accused might be separated and suspended.

4. Decision to suspend the investigation shall specify the following:

4.1. name and position of the prosecutor;

4.2. date of suspension;

4.3. case number and description of the case;

4.4. given and family names of accused;

4.5. grounds for suspending the investigation;

4.6. if the restraining measures should be changed, or not.

5. In case the conditions set forth in section 1 of this Article are no more applicable or additional investigation is required, prosecutor shall issue an order to restore the investigation.

6. Decision to restore the investigation shall specify the following:

6.1. name and position of the prosecutor that restored the investigation;

6.2. grounds for restoring the investigation;

6.3. duration of investigation.

CHAPTER THIRTY TWO

COMPLETING THE INVESTIGATION

Article 32.1. Introducing the materials of case file

1. If the investigator considers that all investigative actions are completed and fully identified and proved the facts of the crime, investigator shall remind the accused, victim, civil claimant, civil respondent, their legal representatives, and advocates to get acquainted with case file materials.

2. After informing the completion of the investigation, accused, victim, civil claimant, civil respondent, and their advocates shall be introduced with the case file and the process shall be documented as note.

3. Participants stated in section 1 of this Article shall get acquainted with the case file within the period set by the investigator, and the investigator shall provide all necessary conditions and opportunities.

4. Investigator shall take measures to satisfy the requests of participants to get acquainted with the evidence reflected in the case file, and audio, video, and audio-video recording reflected in the note of investigative operations.

5. If participants submitted relevant request, investigator shall provide the with opportunities to copy evidence reflected in the case file at their own costs except those classified as state secret which should be discussed only by the court. In case the copied materials are used for purposes other than court trial, penalties stated in the law shall be imposed.

6. Note about introducing participants with materials of the case file shall include the following:

6.1. requests and complaints related to the investigation;

6.2. request for resolving the case by simplified procedure;

6.3. list of victims, witnesses, and experts to be brought at the trial and list of evidence to be examined.

7. Investigator shall respond to request or complaint lodged by participants stated in section 6 of this Article during the process of getting acquainted with the materials by satisfying the request or by denying the request.

8. In case the investigator denied the request and compliant reflected in note and submitted by a participant after being introduced with the case file, such participant may lodge complaint to the prosecutor.

9. In the event of additional investigation was carried out, materials of the additional investigation shall be introduced to relevant participants of such additional investigation.

10. Evidence presented by the advocate that is not introduced to the participants or not attached to the case file shall not be examined during the trial.

11. Participants may lodge a complaint to prosecutor about unlawful acts of investigator violated this Article by not providing an opportunity, time, and conditions to get acquainted with case file.

12. Document, which is specified in Article 16.8 of this law, relates to the state secret, section 4 of this Article shall not apply.

Article 32.2. Transferring criminal case to prosecutor

1. After completion of the operations set forth in Article 32.1 of this law, case shall be transferred to prosecutor within 3 days together with relevant proposal.

/This section was amended by the law dated January 10, 2020/

Article 32.3. Issues should be supervised by prosecutor regarding investigated case

1. Regarding the case transferred by investigator, the prosecutor shall be obliged to review the following:

1.1. whether investigator provided the participants with an opportunity to get acquainted with the file of case, whether the requests and complaint made by participants after getting acquainted with the case file, were resolved;

1.2. whether the characteristics of crime was proved comprehensively;

1.3. if there is a ground to annul the order of accusation;

1.4. whether the requirements stated in Article 16.2 of this law were satisfied;

1.5. if the articles, sections, and clauses of the Criminal Code and this law were used correctly;

1.6. if legislations were violated in applying restraining measures;

1.7. if all perpetrators are accused;

1.8. if measures of property securing was taken for the compensation of damages;

1.9. If the reason and cause of the criminal offence was identified, and measures to eliminate these reason and cause were taken.

1.10. If it was fully proved that the accused is guilty for the crime.

Article 32.4. Prosecutor's decision on the case investigated

1. Prosecutor shall complete the supervision on the case of which the investigation has completed within 14 days and this period may be extended by the upper-level prosecutor by the period of up to 14 days each time only when extension is unavoidable.

2. After reviewing the case, prosecutor shall make one of the following decisions:4.5. grounds for suspending the investigation;

2.1. suspend the investigation;

2.2. transfer the criminal case to the relevant jurisdiction;

2.3. consolidate or separate the criminal cases;

2.4. annul the order of accusation, and return the case to inquiry;

2.5. repeal the case;

2.6. return case to investigation for taking additional investigative action;

2.7. transfer the case to the court.

Article 32.5. Repealing the case and terminating order of accusation

1. Prosecutor shall repeal the case on the following grounds:

1.1. any statutory element of a criminal offense is absent;

1.2. act or omission is no longer considered as a crime.

1.3. the court and prosecutor's decision resolving the case earlier still remain valid;

1.4. suspect and accused died;

1.5. criminal case was initiated and accusation made after the expiry of statute of limitation;

1.6. crime has been proved, however, the accused has not reached the punishable age.

2. In case the investigation fails to prove the guilt of the accused, order of accusation shall be annulled and the case file of the case shall be returned to the inquiry.

3. In case several people were accused and the grounds for terminating the order of accusal are not applicable to all accused, accused or some acts related to the respective accused shall be repealed or respective part of the order shall be annulled.

4. If one of consolidating criminal cases is not proved, the prosecutor shall annul the relevant order of accusation, then shall separate the case and return the case to the investigation.

5. Decision about repealing the case on the grounds stated in sections 1.1, 2, 3, and 4 of this Article shall specify that accused shall have a right to lodge a complaint demanding reparation for the damages occurred to him/her.

6. If the victim, his/her legal representative, and advocate disagree with repealing of a proved crime according to 1.6 of this Article and submitted complaint about it, investigation process shall be carried out by usual procedure [TN: by usual rules means not by special rules stated in Part XVII and exceptional rules stated in Part IX of this law].

Article 32.6. Introducing prosecutor's order about repealing case, and order about terminating the order of accused

1. Prosecutor's orders that repealed the case, or terminated the order on accusation, shall be handed over to the accused, victim, and their legal representatives and advocates within 7 days.

2. Prosecutor's decision stated in section 1 of this Article shall specify the rules for complaining about such decisions.

3. If a case related to state secret is repealed, the decision may be introduced to the accused, his/her legal representative, and advocate without handing over the decision according to section 1 of this Article.

4. Other participants aside from those stated in section 1 of this Article who requested to receive the decision of prosecutor shall be notified by prosecutor to arrive and receive the decision within 7 days.

5. If participants failed to receive the decision of the prosecutor within the period specified in sections 1 and 4 of this Article, the decision shall be delivered according to Article 11.9 of this law.

Article 32.7. Complaining about prosecutor's decision to repeal criminal case and annulment of the order of accusation

1. If a participant disagrees with prosecutor's decision to repeal the criminal case and or annulment of the order of accusation, he/she shall have a right to lodge compliant to the upper-level prosecutor within 14 days after the receipt of the decision.

2. Accused may submit a request to the upper-level prosecutor for reopening the case that is repealed in order to have himself/herself acquitted as not guilty by court decision.

Article 32.8. Reopening repealed criminal case

1. In case new circumstances stated in section 1 of Article 41.1 of this law is discovered, prosecutor's decision about repealing the criminal case and annulment of the order of accusation shall be invalidated by the upper-level prosecutor and the case shall be transferred to the investigation.

2. In case criminal case is initiated and another person is accused, section 1 of this Article shall not be applicable to occasion stated in section 2.4 of Article 32.4.

Article 32.9. Modifying the order of accusation during development of the order of accusation

1. If the prosecutor is about to replace or add the relevant articles, sections of the Criminal Code written in the order of accusation during the development of the bill of indictment, the prosecutor shall accordingly modify the order of accusation and assign the investigator to introduce the modification to the accused.

2. If the prosecutor replaced the criminal punishment with more severe criminal punishment during the modification of the order of accusation, the accused should be interrogated again.

/This section was amended by the law dated January 10, 2020/

Article 32.10. Producing the bill of indictment and furthering case to the court

1. If prosecutor considers that it is reasonable to further the case to the court, the prosecutor shall prepare the bill of indictment and transfer the case to the court of proper jurisdiction.

2. The bill of indictment shall consist of noticing and establishing parts, and annex.

3. The noticing part of the bill of indictment shall indicate the following:

3.1. family name and first name of the accused, and other personal information about identification documents;

3.2. summary of the crime allegedly committed, place and time of the crime, damages caused by the crime, and other unavoidable evidence as required.

4. The establishing part shall include the following:

4.1. article, section, sub-section of the Criminal Code which are applicable to sentencing of the criminal offense allegedly committed by the accused;

4.2. the court of proper jurisdiction;

4.3. name and official position of the prosecutor who issued the bill of indictment and date of the indictment.

5. Annex of the bill of indictment shall include the following:

5.1. the list of evidence to be examined and name of other participants to be summoned for questioning at the trial;

5.2. whether any restraining measure is taken, the duration of such measure;

5.3. information about damages and consequences of the crime;

5.4. physical evidence and seized and sealed property.

6. Prosecutor shall hand over a copy of the bill of indictment to the accused and shall notify the accused or his/her legal representative, advocate about the furtherance of the case to the court of relevant jurisdiction.

7. If the accused refuses to receive the bill of indictment, it shall be recorder as a note, and such process can be evidenced by an audio-video recording when necessary, and the case shall be transferred to the court.

/This section was amended by the law dated January 10, 2020/

8. After handing over the bill of indictment, any request and complaint about the case shall be transferred to the court.

/This section was amended by the law dated January 10, 2020/

PART VII

PROCEEDINGS IN THE COURT OF FIRST INSTANCE

CHAPTER THIRTY THREE

TRANSFERRING ACCUSED TO THE COURT, PREPARATION FOR THE COURT TRIAL

Article 33.1 Resolving transfer of the accused to court

1. On the criminal case transferred from the prosecutor to the court, the judge within 15 days from the receipt shall make one of the following decisions:

1.1. transfer the accused to the court;

1.2. return case to the prosecutor's supervision;

1.3. suspend the case;

1.4. transfer the criminal case to the court of proper jurisdiction.

2. If it is unable to resolve the transfer of the accused to court within the period stated in section 1 of this Article, this period can be extended by the period of up to 30 days by the decision of the Chief justice of such court.

3. The decision stated in section 1 of this Article shall indicate the following:

3.1. place and time of the decision made;

3.2. name of the judge who made the decision;

3.3. grounds of the decision.

4. If the parties did not submit request for preliminary hearing, the court may skip preliminary hearing.

5. The preliminary hearing of the court can be closed to public based on grounds stated in this law.

6. By the preliminary hearing, the following issues shall be discussed upon request or complaint submitted by parties or on the owin initiative of the judge, and decision shall be made:

6.1. request about implementation of right to legal assistance;

6.2. request or proposal about appointment or replacement of legal representative of the victim;

6.3. request about suspension of the criminal case or about circumstances stated in sections 1.2, 1.3, 1.4, and 1.5 of Article 1.5 of this law;

6.4. request for correcting clerical mistakes such as typographical or calculation errors showed in the bill of indictment;

6.5. request made by defendant about paying for damages of the crime as compensation;

6.6. request for resolution of the criminal case by simplified procedure;

6.7. request about voluntary conciliation of the parties;

6.8. complaint about failure of official delivery of the bill of indictment;

6.9. request or proposal about set the date of the court trial;

6.10. request or proposal submitted by prosecutor or participant about victim, witness, expert witness to be summoned or evidence to be examined at the trial;

6.11. request for closed to public trial;

6.12. request or proposal related to restraining measures;

6.13. complaint about violation of rules of this law during collection and authentication of evidence;

6.14. complaint about violation or unlawful limitation of participant's rights during inquiry, investigation;

6.15. request for additional investigative operation;

6.16. request or proposal about seizure of property;

6.17. complaint about failure of introducing with the order of accusation or unclear statement in the order of accusation;

7. In case the court considers that request stated in section 6.5, 6.6, or 6.7 is reasonably grounded, then the criminal case can be resolved by simplified procedure immediately.

8. The participation of victim, his/her legal representative, and advocate can be allowed at the preliminary hearing upon their request. The failure to appear of victim, his/her legal representative, and advocate shall not serve as a ground to postpone the preliminary hearing.

9. The date of the preliminary hearing shall be set by court considering the proposals of the prosecutor and advocate, and the date shall be notified to the participants at least 3 days before the hearing.

10. The preliminary hearing shall be conducted by a judge on his/her own, and hearing record shall be written down by the secretary of court according to articles 11.7 and 11.8 of this law, and the prosecutor and participants shall be introduced to the hearing record.

11. At the preliminary hearing, the guilt of the accused or imposing of criminal penalties shall not be discussed.

12. In case it is unable to resolve requests and/or complaints stated in sections 6.13, 6.14, 6.15, and 6.16, then such requests and/or complaints shall not be discussed during the hearing and shall be resolved by the first instance trial.

Article 33.2. Bringing accused to the trial

1. The decision to bring the accused to the trial shall indicated the following:

1.1. The place and time of the trial;

1.2. whether the trial will be conducted by a single judge or by a judicial panel;

1.3. names of person to be brought to the trial;

1.4. whether to conduct a partially closed or wholly closed trial;

1.5. resolving the restraining measure taken for the accused;

1.6. whether any criminal offence will be separated or consolidated;

1.7. how the requests and complaints stated in section 4 of Article 33.1 of this law were resolved;

1.8. persons and ways to ensure preparation for the trial.

2. The court shall try the case within 14 days after the court decision to bring accused to trial is made and the court shall notify the parties about date and time set for the trial at least to 3 days before the trial.

Article 33.3. Returning the case to prosecutor's supervision

1. On the following grounds, the court, on its own initiative or upon proposal of prosecutor or request made by defendant, victim, their legal representatives, and advocates, shall decide to return the case to prosecutor's supervision:

1.1. incorrect separation of a case;

1.2. additional investigative operation which is impossible to execute during the trial, is necessary;

1.3. a serious violation of the Law on Criminal Procedure found to be conducted during any investigative operation.

2. In case the prosecutor, accused, his/her legal representative, and advocate disagreed with the court decision to return case to the prosecutor's supervision, they shall have right to file objection or complaint within 5 days from the receipt of such decision.

/This section was amended by the law dated January 10, 2020/

Article 33.4. Suspending the case

1. In the following conditions, judge shall suspend the criminal case:

1.1. if whereabouts of the accused is unknown;

1.2. if the accused is not capable to arrive due to mental or other severe illness which is confirmed by an opinion of expert witness or by examination of a medical institution;

1.3. if Constitutional Court has initiated a case and is resolving a complaint about the relevant regulation of the Criminal Code that is applicable for the criminal case violates human rights and freedoms provided by the Constitution;

1.4. if the court has approached the Supreme Court in order to have determined if the law should be used to resolve the case violates the Constitution of Mongolia;

1.5. if the Supreme Court has approached the Constitutional Court in order to have determined if the law should be used to resolve the case violates the Constitution of Mongolia.

2. The judge shall issue an order and restore the case if the conditions described in section 1 of this law have been eliminated.

CHAPTER THIRTY FOUR

GENERAL CONDITIONS OF THE TRIAL

Article 34.1. First instance trial of criminal case

1. After the first instance trial proves or negates the guilt of the defendant, the court shall make decision to impose criminal penalty stated in the Criminal Code if the defendant is found guilty, or make decision to acquit if the defendant is not guilty.

2. After presenting grounds of its decision in which the defendant is considered as guilty where the defendant argues on his/her guilt, the court shall continue the trial by discussing issues related to imposing criminal penalties stated in the Criminal Code.

3. Based on request or proposal of defendant, his/her legal representative, and advocate about about paying damages or loss incurred by the crime as compensation, the court may adjourn the trial.

4. Decision about adjournment shall specify the duration of adjournment and time to continue the trial should be notified to parties, defendant, and his/her legal representative.

5. In case the trial is adjourned on the grounds stated in section 3 of this Article, the total duration of the adjournment shall not exceed 5 working days.

Article 34.2. Courtroom

1. Trial shall be conducted in the courtroom where the state emblem and the state flag of Mongolia are placed.

Article 34.3. Continuity of trial

1. The trial shall be conducted during the daytime continuously without interruption except for unavoidable adjournments for the purpose to rest.

Article 34.4. Conducting open to public trial

1. Trial shall be conducted open to public.

2. In the following occasions, trial shall be conducted partially or wholly closed:

2.1. trying a case related to state, corporate, and/or personal secrets;

2.2. trying a case against juvenile defendant if the legal representative or advocate lodges a request;

2.3. trying a case with victim under 18 years old and when it is necessary to protect the legal interest and rights of the victim;

2.4. reading aloud the testimony of the witness who is currently under protective measures, and analyzing the evidence obtained through undercover search for a participant or undercover investigative operation.

3. The court shall decide the persons to be present or to participate in the closed trial.

4. When presenting the information related to undercover investigative operations of which disclosure is prohibited, to the court, respective legislations shall be implemented.

5. In case the trial is conducted as closed to public, the resolution part of the court decision shall be read aloud as open to public.

6. In order to protect the rights and legal interests of juvenile defendant and victims under 18 years old, court hearings may be conducted open to the public at the request of the prosecutor, or legal representative and/or advocate of the victim.

/This section was amended by the law dated January 10, 2020/

Article 34.5. Power of the presiding judge

1. The presiding judge shall direct the trial by ensuring thorough, complete, and objective examination of the case from all available aspects, and take all measures provided by this law to establish facts of the case.

2. The presiding judge shall be obliged to take measures for ensuring implementation the court trial rules and shall explain rights and obligations of participants.

3. The presiding judge shall ensure conditions for the competitive argument of the court trial by parties with equal rights who have the function to accuse or defend.

Article 34.6. Inalterableness of judicial panel during examination of a case at trial

1. A case must be considered by one and the same judicial panel.

2. If any one of the judges is prevented from continuing to participate at the trial for respectful reasons, he/she shall be replaced by another judge, and examination of the case shall commence from the beginning.

Article 34.7. Participation of prosecutor at trial

1. A prosecutor shall participate at trial as the public prosecutor, and shall analyze the evidence, give proposal about issues arisen during the trial, and shall present to the court the prosecutor's conclusion about the articles and sections of the Criminal Code to be applied for sentencing the defendant, type and severity of criminal punishment, regime for serving imprisonment, discharging, reprieving, taking coercive measures, and other issues.

/This section was amended by the law dated January 10, 2020/

2. The public prosecutor shall support the indictment based on legal grounds, facts of the case, and evidence, and shall be guided by his/her own truthful belief.

3. When supporting the indictment, the public prosecutor shall consider proposals about imposing more severe punishment or aggravating the criminal penalties proposed by the victim, his/her legal representative, and advocate.

4. In case several public prosecutors are taking part at the trial, one pubic prosecutor shall represent the others during the argument on certain issues.

5. The public prosecutor who is representing the others according to section 4 of this Article may request for an adjournment of the trial for the purpose to consult with other prosecutors.

6. For the following cases, the public prosecutor shall refuse to indict the defendant and submit such proposal to the court in writing:

6.1. if believes that the defendant is not guilty;

6.2. if considers that the criminal case should be returned to the prosecutor's supervision.

7. The public prosecutor may refuse from the indictment before the judicial panel leaves for deliberation room.

8. A prosecutor shall have a right to lodge a civil claim or to support the civil claim if the prosecutor considers that the state and/or public interest should be protected.

Article 34.8. Participation of victim at the trial

1. In case the victim submitted a written request to participate at the trial of first instance court, the presence of the victim shall be allowed at trial.

2. Non-appearance of victim shall not serve as grounds for postponing the trial.

3. Victim shall be provided with an opportunity to freely communicate with his/her advocate, if necessary with public prosecutor too, without disturbing the normal process of the trial.

4. Victim may make a request and proposal to indict the defendant and aggravate the criminal penalty at any time during the trial.

Article 34.9. Participation of defendant at trial

1. The participation of the defendant shall be ensured at the trial of a court of first instance. Defendant's failure to appear at the trial shall serve as grounds for postponing the trial.

2. Defendant shall be provided with opportunity to freely communicate with his/her advocate and meet individually without obstructing the normal judicial proceedings.

3. A court may take restraint measures for the defendant who has failed to appear or may change a restraining measures taken.

4. In resolving the application of compulsory medical measures by the court, the court may resolve without the presence of defendant but with participation of the defendant's legal representative, advocate, and guardian considering the physical conditions of the defendant.

Article 34.10. Participation of advocate at the trial

1. The defense advocate shall take part in the trial, examine evidence, and shall submit request about issues arisen during the trial, and shall provide his conclusion about acquittal or mitigating circumstances of the criminal responsibility to be imposed on the defendant.

2. In case a defendant is defended by several advocates, one advocate may represent the others during the argument on certain issues.

3. Advocate who is representing other advocates according to section 2 of this Article may request for an adjournment of the trial for the purpose to consult with other advocates.

4. Except for events specified in section 1 of Article 5.3 of this law, the court may proceed the trial upon the request about self-representation submitted by the defendant in writing.

5. Rights and duties of advocate stated in this Chapter shall also be applicable to the advocate of the victim, civil claimant, civil respondent.

Article 34.11. Participation of civil claimant and civil respondent at the trial

1. In case civil claimant and/or civil respondent submitted a written request to participate at the trial of first instance court, the presence of such persons shall be allowed at trial.

2. Nonappearance of advocate and citizens' representative of the court shall serve as grounds for postponing a trial.

Article 34.12. Consequences of the failure to appear of the public prosecutor, advocate, and citizens' representative of the court

1. If the public prosecutor, advocate, or citizens' representative of the court is not able to appear at the court trial, they shall notify the court in writing. In case the public prosecutor, advocate, or citizens' representative of the court have not appear at the court, the trial shall be postponed.

2. If a civil claimant, civil respondent, and their advocate is unable to continue their presence at the trial, they can be replaced. In this case, the trial of first instance shall be started over and they shall be introduced to the case file. The court shall set length of period for getting familiarized with the case file considering their requests.

3. If public prosecutor, advocate, and citizens' representative of the court have failed to appear at the trial without reasonable excuse, it shall become the ground to impose penalties.

4. Section 1 of this Article shall not be applicable when a defendant represents himself/herself at court.

Article 34.13. Consequences of failure to appear of victim, witness, and expert witness at the court trial

1. If a victim, civil claimant, civil respondent, or their legal representative, witness, or expert witness failed to appear at at the court trial, the presiding judge shall decide to proceed or postpone the trial considering proposals of the public prosecutor, defendant, his/her legal representative or advocate about continuing the trial without their presence.

Article 34.14. Limitations of criminal adjudication

1. The first instance adjudication of a criminal case shall only consider issues that are within the scope of the criminal case which was submitted by the prosecutor regarding the specific defendant.

2. The court may mitigate the proposed sentence based on established facts of the case.

Article 34.15. Adjournment of the trial

The court may decide to adjourn the trial for the following grounds:

1.1. working hours ended;

1.2. the public prosecutor who is representing other prosecutors requested to consult with others, or advocate requested to consult with other advocates;

1.3. a request was submitted according to section 3 of Article 34.1 of this law;

1.4. in case there is another reasonable ground.

Article 34.16. Postponement of the trial

The court may decide to postpone the trial for the following grounds:

1.1. parties who should be present at the trial, victim, his/her legal representative, witness, or expert witness is not present;

1.2. parties agreed to carry out additional expert analysis, experiment, and/or examination of a place and premises;

1.3. a public prosecutor or an advocate was replaced or added to the adjudication of the case;

1.4. other reasonable grounds for postponing the court trial.

2. When the court trial is postponed, the court shall set the date of the next trial considering the proposals and requests of the parties and shall take measures to ensure the preparation of the next trial.

3. In case the grounds stated in section 1 of this Article were repeated two or more times and it is considered as the deliberate obstruction to the criminal adjudication, the court may refuse to postpone the court trial.

4. In case the defendant has committed another crime during the adjudication of the case or his/her previously committed crime has been discovered, it shall not serve as the ground to postpone the court trial.

/This section was amended by the law dated January 10, 2020/

34.17 Suspension of the criminal proceedings

1. The court shall suspend the criminal proceedings for the following defendants and continue the adjudication process for other defendants who allegedly committed the crime:

1.1. if the defendant has fled, until he/she is found;

1.2. if the defendant is unable to appear due to mental or other severe illnesses as verified by expert opinion or certification of medical institution, until he/she recovers.

2. Search for a fled defendant shall be assigned to the authorized organization by court decision.

3. If the separation of a criminal act of the defendant who has escaped or has severe illness may obstruct thorough, complete, and objective establishment of the criminal acts of other defendants, then the criminal proceedings shall be suspended for the whole case.

4. In case a complaint is filed to the Constitutional Court questioning the compliance with the Constitution of the law that the court shall apply, the proceedings shall be suspended.

5. If the court considers that the law to be applied does not comply with the Constitution of Mongolia, it shall suspend relevant proceedings of the case and submit its proposal about the noncompliance to the Supreme Court.

6. If grounds for the postponement stated in this Article are eliminated, the court shall restore the proceedings of the case.

/This section was amended by the law dated January 10, 2020/

34.18 Separate adjudication of criminal case

1. For the following cases, the court shall separate a criminal case based on proposal of the public prosecutor and/or request from advocate and shall make its final decision on whether to proceed the court trial:

1.1. some criminal acts allegedly committed by the defendant as stated in the bill of indictment has not been firmly established;

1.2. some defendants are not able to appear at the trial for reasonable excuse and separating the case would not influence the full and objective establishment of the facts of such case.

34.19 Repealing criminal case

1. The court shall repeal the case on the following grounds:

1.1. any statutory element of a criminal offense is absent;

1.2. criminal case was initiated and accusation made after the expiry of statute of limitation;

1.3. the defendant died;

1.4. previously issued court decision that resolved the case is still remain valid;

1.5. act or omission is no longer considered as a crime;

1.6. the defendant has not reached the punishable age;

1.7. it is found that the defendant was incompetent at the time of committing a crime;

1.8. a condition that negates crime has been established.

~~2. Criminal cases that has been repealed according to section 1.1 of this Article shall be returned to the inquiry.~~

/*This section was annulled by the law dated January 10, 2020/*

Article 34.20. The court trial rules

1. When judge or a judicial panel enters the courtroom, and the court decision is read aloud, all individuals present in a courtroom shall stand and show respect.

2. All participants of the court trial shall stand when addressing the court, giving their testimony and making statements.

3. If participant of the court trial has reasonable excuse, he/she may give testimony or make a speech while sitting upon the permission of the presiding judge.

4. The public prosecutor and advocate shall be present when the court decision is read aloud.

5. All participants of the court trial, as well as all individuals present in the courtroom shall obey the presiding judge's decision that sets the court trial rules.

Article 34.21. Liabilities for violating the court trial rules

1. If during court trial a defendant has violated court trial rules or disobeyed decisions of the presiding judge or demand of the person who is keeping order in the courtroom, such defendant shall be warned of removal from the courtroom, and if violation is repeated, the defendant shall be removed from the courtroom and only be allowed to be present in the courtroom when the court decision is read aloud.

2. In case a defendant is removed from the courtroom as stated in section 1 of this Article, the defendant can be kept in a specially equipped room where such defendant may get acquainted with the process of court trial and give testimony.

3. In case the public prosecutor, advocate, expert witness, translator, or interpreter violated the court trial rules or disobeyed decision of the presiding judge, they shall be warned and if the violation is repeated such person shall be punished by the penalty provided in Article 15.5 of the Law on Infringement.

4. In case any other individual who is present in the courtroom commit violation stated in section 1 of this Article, such individual shall be removed from the courtroom by decision of judge and shall be punished by penalty specified in Article 15.6 of the Law on Infringement.

5. The court decision stated in this Article may be appealed.

CHAPTER THIRTY FIVE

CRIMINAL COURT PROCEEDINGS

Article 35.1. Opening of the court trial

1. The presiding judge shall open the court trial at the time assigned for consideration of the case and shall announce name of the defendant and the brief information about the case which is subject to review and resolution.

2. The secretary shall report about the appearance in court of the parties and summoned persons, other participants, and shall report the causes of the nonappearance of those who are absent.

3. The presiding judge shall clarify the reasons for failures to appear of the public prosecutor, participants and other participants and shall decide whether to postpone the trial.

Article 35.2. Explaining duties of translator and interpreter

1. The presiding judge shall explain the translator, interpreter about his/her duty to translate or interpret the testimony and statements made, and documents, the decision of the court and decisions made by the presiding judge during the trial to individuals who do not have command of the Mongolian language or who has visual, hearing, or speaking disability and to translate, interpret testimony and statements made by such persons to the court and other participants.

2. The translator or interpreter shall be warned about the responsibility for making deliberately false translation or interpretation and they shall sign the trial record.

Article 35.3. Removing witnesses from courtroom

1. Witness shall be removed from the courtroom until his/her testimony is heard.

2. The presiding judge shall take measures so that witnesses who have given testimony to the court trial do not communicate with witnesses who have not given testimony.

Article 35.4. Establishing the fact of timely introducing the order of accusation and handing the copy of bill of indictment to defendant

1. The presiding judge shall establish the identity of the defendant, ascertaining his/her first name, surname name, place, year, month, day of birth, citizenship, and place of residence, occupation, education, profession, and marriage status and shall ask the defendant when the order of accusation was introduced and the copy of the bill of indictment was handed to him/her.

Article 35.5. Announcing judicial panel and explaining right to challenge a judge

1. The presiding judge shall announce the judicial panel and inform names of the public prosecutor, advocate, citizens' representative of the court, secretary of the court, expert witness, translator, and interpreter and shall explain to the defendant and other participants in the court trial who has the right to challenge a judge that they have the right to submit peremptory challenge according to regulations of this law.

2. If a participant of the trial specified in section 1 of this Article submits a request to challenge the issue shall be resolved according to rules provided by Chapter 10 of this Law.

Article 35.6. Explaining of rights and duties of participants

1. The presiding judge shall explain their rights and duties provided in this Law to the defendant, victim, civil claimant, civil respondent, expert witness, and other participants.

2. Presiding judge shall clarify if the defendant and victim if their right to legal assistance has been ensured.

3. In case any participant has failed to appear at the court, it shall be resolved as provided in this law.

Article 35.7. Setting the order of events in trial

1. Presiding judge shall set the sequence for reviewing the case within the scope of the evidence that the parties submitted for examination, and shall notify the witness, victim and expert witness to arrive on time.

2. Parties shall have a right to propose exclude examination of an evidence submitted to the court, remove evidence from the list of evidence or to request change of the sequence of evidence examination.

Article 35.8. Adversary proceeding of trial

1. The adversary proceeding shall be held based on the equal adversarial argument between the prosecuting and defending parties.

2. During the judicial adversary proceeding, indicting evidence shall be examined at first and acquitting evidence shall be examined next.

3. Adversary proceeding of the trial shall start with the hearing of the bill of indictment proposed by the public prosecutor.

4. The presiding judge shall ask each defendant if they clearly understood the content of the bill of indictment, potential criminal penalties and may assign the public prosecutor to provide explanation in response to request from defendants.

5. After public prosecutor reads aloud the bill of indictment, the presiding judge shall ask if defendants would give testimony. If they agrees to testify, the presiding judge shall decide to hear such testimony.

6. Defense advocate may make a speech in relation to the bill of indictment made by the public prosecutor.

7. Party that requested to take testimony from defendant, witness and expert witness and examine evidence shall first ask questions and examine.

8. In case questions asked from defendant and/or witness requires giving testimony against him/her or his/her family member, parents, and children, then advocate or public prosecutor may ask permission to remain silent for such question from the court.

9. If a same question is asked by parties repeatedly from defendant, witness and expert witness or if the court considers that objection made by parties to remain silent is reasonably grounded, the the presiding judge may cease such questions and answering.

10. Public prosecutor and advocate may request permission to ask more questions from defendant, victim, witness, and expert witness who gave testimony during adversary proceeding of the trial or to hold another examination of certain evidence that has been previously examined.

11. When holding additional examination of certain evidence and taking additional testimony from defendant, victim, witness, and expert witness, rules set forth in law shall be applied.

12. Judge, and citizens' representative of the court shall have a right to take part in the examination of evidence and ask questions for clarification at any time.

13. When hearing testimonies of defendant, witness, victim, and expert witness and examining evidence are over, the presiding judge shall announce the end of the adversary proceeding of the trial.

Article 35.9. Testifying defendant at trial

1. After the public prosecutor reads aloud the bill of indictment, the presiding judge shall ask if defendants would give testimony. If they agrees to testify, the presiding judge shall decide to hear such testimony.

2. After the defendant gives testimony, the public prosecutor shall ask question first and then advocate shall ask.

3. Parties may ask questions from defendant according to sequence set by the presiding judge.

4. The defendant may be testified without presence of other defendants based on request of parties when the court considers that it is important for establishing facts of the case.

5. If the testimony is heard as stated in section 4 of this Article, the presiding judge shall introduce the brief content of such testimony to defendants who were removed from courtroom during the testimony and shall give them opportunity to ask questions from defendant who gave testimony when they were out of the courtroom.

6. With permission of the presiding judge, a defendant may give additional testimony at any time during the adversary proceeding of the trial.

7. Regulation stated in section 4 of this Article shall also apply for a juvenile defendant.

Article 35.10. Testifying victim, civil claimant, and civil respondent at trial

1. When testifying defendants is over, testimony of victim, civil claimant, and civil respondent shall be heard at the trial according to rules set forth in articles 35.14 and 35.15 of this law.

2. In case any testimony is significantly differs from the testimony that was given during the inquiry and investigation stages or victim, civil claimant, or civil respondent failed to appear at the court, the testimony given during the inquiry and investigation stages shall be read aloud.

Article 35.11. Reminding law to witness

1. Before taking testimony from the witness, the presiding judge shall clarify his/her personal identity and relation with defendant and victim, then explain that witness is obliged to testify the truth of the criminal case, and warn about potential penalty for refusal from testimony or deliberate false testimony, and shall have the witness's signature on the trial record.

2. The presiding judge shall explain to the juvenile witness about the importance of truthful testimony, but shall not remind about penalties for a false testimony.

Article 35.12. Accompanying witness during testimony at trial

1. Considering that witness may feel uncomfortable during the court trial due to mental and/or personal conditions or for other reasons and considering the request and proposal of the public prosecutor or advocate, the court may permit a family member of the witness or persons who have close relationship with the following witnesses to accompany such witness at the trial:

1.1. person whose mentality has not become mature for reasons that are not related to mental illness;

1.2. person who has suffered mentally or physically due to the crime.

2. The presiding judge shall warn the accompanying person of the witness stated in section 1 of this Article not to intervene or influence the witness during testimony, and shall remove such accompanying person from the courtroom if such warning is violated.

Article 35.13. Examining personal identification of witness under protection

1. If testimony will be taken from a witness who is under the protection stated in Article 13.1 of this law, the presiding judge shall examine the personal identification of the witness and his/her relationship with the defendant and victim in advance.

2. Witness shall be reminded to notify of the change in his/her residential address.

Article 35.14. Hearing testimony of witness

1. In case the court decided to summon a witness at the trial based on the request of either party, such witness shall appear at the court trial and give testimony.

2. Testimony shall start with questions of the party who requested the testimony of the witness, or by the questions of the accusing party if the witness's testimony is not requested by any party.

3. When testifying a witness according to sequence set by presiding judge, rules set forth in sections 6,7,8,9,10,11, and 12 of Article 35.8 of this law shall be applied.

4. When testifying a witness, it shall be prohibited to refuse from testifying such witness for the fact that the witness was present in the courtroom during the testimony of another witness.

5. When testifying a witness is over, the presence of such witness in the courtroom can be allowed, and such witness can be testified again when necessary.

Article 35.15. Testifying witness who is under 18 years old at trial

1. When a witness who is under 18 years old is necessary to be testified, the public prosecutor and advocate shall check the mental and intellectual state of the witness and conditions to prevent from potential negative influence.

2. The court, according to the request of the public prosecutor or advocate, may enable the presence of the legal representative of witness, or teacher, or psychologist when testifying witness who is under 18 years old.

3. The presiding judge shall warn the person accompanying a witness who is under 18 years old not to interfere and influence during the testimony of such witness and shall impose penalty stated in Article 34.21 of this law if the warning is violated.

Article 35.16. Introducing with testimony of witness, and evidence

1. In case witness's testimony differs from his/her testimony that was given during the inquiry and investigation stages, the testimony given during the inquiry and investigation stages shall be read aloud in order to establish facts of the case by fully and objectively examining such facts from all available aspects.

2. A witness may use written notes when giving testimony at the court trial.

3. A witness shall be allowed to read documents related to his/her testimony, however, such documents shall be provided to the court.

4. During the testimony of a witness, the public prosecutor and advocate may introduce and demonstrate the necessary evidence.

Article 35.17. Reading testimony aloud

1. The previously given testimony of a witness can be read aloud from the minutes or can be introduced to the parties as audio, video, or audio-video recording based on request of parties.

2. If the court considers that the request of parties as grounded, the witness may be testified and or questioned through audio-video equipment without his/her physical presence at the trial if such witness is under protection according to Article 13.1 of this law or in order to protect the witness from mental pressure or external influence.

3. In order to ensure the implementation of goals of the criminal procedure, the court, considering the request and proposal of parties as reasonably grounded or on its own initiative, may testify and question a witness during the trial through audio-video equipment by separating him/her in a specially equipped room.

4. In case operations stated in sections 2 and 3 of this Article is implemented, personal identification of the witness shall be established and relevant laws shall be reminded.

5. In case expert opinion or certification of medical institution proves that the witness has died or is physically unable to give testimony in person, audio, video, or audio-video recording that reflects the testimony of such witness shall be presented or manuscript of the witness shall be examined.

Article 35.18. Protecting witness and victim

1. When taking witness and victim protection measures in compliance with Article 13.1 of this law during the court trial, personal characteristics of the witness and victim, circumstances of the crime shall be considered and the court shall examine if crime committed with any discrimination,or committed against sexual inviolability, child safety.

2. Before testifying witness and victim whose identity and names were concealed according to Article 13.1 of this law, witness and victim shall be disclosed.

3. The court shall decide if the trial in which the witness and victim stated in section 2 of this Article testify, should be closed or open to public by holding a preliminary hearing as stated in section Article 33.1 of this law.

4. In case the grounds for protecting the witness and victim who testified at the trial remains valid or such grounds have newly emerged, then protective measures shall be taken as stated in Chapter 13 of this law.

Article 35.19. Examination of physical evidence and written evidence

1. During the examination of evidence at trial, parties shall introduce the physical evidence and written evidence of the case file to the court, defendant, witness, and expert witness.

2. After being introduced with physical and written evidence, participants may request the court to ask clarifications from defendant, witness, and expert witness.

3. In case an evidence that is unable to be brought to the trial should be examined, this process shall be noted in trial record and the judicial panel may arrive at the place of evidence and examine it with presence of the parties.

4. Based on the request of participants, written evidence included in the case file may be examined and read aloud for participants.

5. As requested by participants, the presence of expert witness, specialist, and other witnesses may be ensured during the examination of the physical and written evidence.

6. When testifying participants stated in section 5 of this Article, regulations set forth in articles 35.10, 35.11, 35.12, 35.13, 35.14, 35.15, and 35.16 shall be applied.

Article 35.20. Examining the results of the investigative action

1. Results of the investigative actions stated in this law shall be examined and analyzed by way of checking the investigation minutes, audio, video, and audio-video recordings, and testifying witness and expert witness at the courtroom.

2. Examination of the results of investigative actions shall be limited by information reflected in the minutes, audio, video, and audio-video recordings.

3. When testifying participants stated in section 1 of this Article, rules set forth in articles 35.11, 35.12, 35.13, 35.14, 35.15, 35.16, and 35.17 shall be applied.

4. After the investigator introduces the conclusion stated in Article 26.8 of this law, the parties may ask questions from investigator to have the conclusion explained and clarified.

Article 35.21. Examining expert opinion, testifying expert witness, carrying out additional or repeated expert analysis

1. Sequence for the examination of a conclusion of investigator and expert opinion of several expert witnesses shall be set by the court based upon proposals of the parties.

2. After expert witness reading aloud its expert opinion, the parties may ask questions from the expert witness to have the expert opinion explained and clarified and may request the court to carry out an additional expert analysis.

3. When testifying the expert witness, rules set forth in articles 35.11, 35.12, 35.13, 35.14, 35.15, 35.16, and 35.17 shall be applied.

Article 35.22. Examination of places and dwellings

1. If there is no other way to establish facts of the case, the court may organize an examination of crime scene or dwelling where the crime was committed with the presence of the parties, witness, expert witness, and other participants.

2. Upon arrival at the place of the examination, the presiding judge shall announce that the trial continues hereafter, and parties may ask questions from the defendant, victim, witness, and expert witness in connection with the examination.

3. Participants of the examination may explain everything that can be significant for establishing facts of the case to the court.

4. Examination shall be carried out according to rules set forth in this law.

Article 35.23. Carrying out investigative experiment

1. An experiment can be carried out by the court upon the request of either party if it is necessary to reproduce certain circumstances and events in order to examine evidence that is included in the case file.

2. Parties, witnesses and other participants shall be present during an experiment.

4. Experiment shall be carried out according to rules set forth in this law.

Article 35.24. Presentation of conclusion by public prosecutor and advocate

1. After the chief justice announces the end of adversary proceeding of trial, the public prosecutor and advocate shall issue their conclusions. Their conclusions can be submitted to the court in writing.

2. Before presenting their conclusions, the public prosecutor and advocate may request for a break from the court. The court shall set the duration of the break.

3. After the public prosecutor and advocate finish presenting their conclusions, they may make a counter comment to each other within the content of their conclusions.

4. Any new evidence that has not reviewed by the court trial shall not be used in their conclusions.

5. The court, in conformity with goals of criminal procedure, shall determine the duration of time for presenting conclusions and counter commenting by public prosecutor and advocate considering requests and proposals of the parties.

6. In case the defendant is representing him/herself at the court, he/she shall have a rights to provide conclusions and comments specified in this Article.

7. After public prosecutor and advocate present their concussions, the presiding judge shall announce the end of the presentation of conclusions at the trial.

Article 35.25. Final statement of the defendant to the court

1. After completion of conclusion by the public prosecutor and opinion by the advocate and their comments, the presiding judge shall allow the defendant to give the final statement, and questions to shall not be allowed during the final statement of the defendant.

2. Time limit shall not be applicable for the final statement of the defendant.

Article 35.26. Hearing opinion of citizens' representative of the court

1. After the completion of the process stated in Article 35.24 of this law, citizens' representative of the court may read aloud his/her opinion about the guilt of the defendant which opinion is submitted to the court.

Article 35.26. Departing of the judicial panel to consultation room

1. After the final statement of the defendant is presented, the judicial panel shall depart to the deliberation room to issue the court decision, and the presiding judge shall announce this process.

CHAPTER THIRTY SIX

COURT DECISION

Article 36.1. Consultation for issuing the court decision

1. The court shall make its decision by consulting in the deliberation room. The presiding judge shall facilitate voting and decision making in the deliberation room and shall make the decision based on the majority of votes.

2. During the consultation in the deliberation room, all judges shall have equal right and duty of vote and shall express, explain their positions and proposals.

3. Judge who forms minority of the votes in the deliberation room shall have right to explain his/her grounds and to carry out another voting.

4. Judge who forms minority of the votes in the deliberation room shall write his/her special proposal and attach it to the court decision, and such special proposal shall not be announced when of the court decision is read aloud.

5. When making decision on the guilt of the defendant, the court shall discuss each of the following issues in the deliberation room:

5.1. if elements of the crime established by the trial constitutes a crime or not;

5.2. whether the defendant is guilty of committing the crime;

5.3. article, section, sub-section of the Criminal Code applicable to sentencing of the criminal offense committed by the defendant;

5.4. determined the amount of compensation for damages and loss incurred by the crime for each defendant.

6. After the court introduces its decision resolving that the defendant is guilty of committing the crime and has the decision reflected in the trial record, the court may continue the trial to discuss about imposing criminal penalty according to Criminal Code.

7. In case the court decided to adjourn the trial according to section 3 of Article 34.1 of this law and decided to proceed the trial with imposing criminal penalty after the adjournment, general conditions of the court proceedings set forth in Chapter Forty four shall be applicable to the court trial proceedings.

8. When deciding whether to impose criminal penalty to the defendant according to the Criminal Code, the court shall discuss each of the following issues in the deliberation room:

8.1. presence of aggravating and mitigating conditions specified in articles 6.5 and 6.6 of the Criminal Code;

8.2. type and severity of criminal punishment, and if the defendant should serve time in prison or not;

8.3. the regime of the prison facility if imprisonment is imposed as criminal penalty;

8.4. calculation of the duration of arrest and other restraining measures when such durations should be included in the criminal penalty;

8.5. process of dealing with physical evidence;

8.6. calculation of the cost of the criminal procedure;

8.7. change or termination of the restraining measures taken for the defendant;

8.8. process of dealing with seized and sealed properties.

9. The presence of any individual except judges shall be prohibited in the deliberation room during the consultation of judges.

10. Issues consulted by judges in the deliberation room should not be disclosed.

Article 36.2. Form and structure of court decision

1. The court decision made on the name of Mongolia shall have forms of convicting or acquitting.

2. The court decision shall consist of introduction, description, and resolution parts.

3. The court decision should be written in clear and comprehensible language, and shall be unambiguously enforceable.

4. If the defendant is found guilty during the court trial, the court shall make convicting decision.

5. If the act or omission of the defendant does not constitute a crime or he/he is not found guilty, the court shall make acquittal decision.

6. The acquittal decision of the court shall specify that the defendant has the right to lodge a complaint according to this law claiming for the reparation.

Article 36.3. Resolving civil claim by the court decision

1. When making conviction decision on criminal case, the court shall decide to satisfy or repeal the civil claim fully or partly considering grounds of the civil claim and established facts of the case.

2. When making acquittal decision on criminal case, the court shall resolve the following:

2.1. repeal the civil claim if the commission of any crime or defendant's participation in the crime has not proven;

2.2. decide not to discuss the civil claim if the defendant was acquitted because his/her action or omission does not constitute a crime.

3. In case certain amount of civil claim cannot be calculated without postponing the court proceedings, the court may transfer the civil claim to the jurisdiction of civil court procedure by specifying that the civil claimant has the right to have the claim resolved.

Article 36.4. Consequence of leaving civil claim without consideration

1. In case a civil claim was repealed during the criminal procedure, the civil claimant shall not have right to submit the same civil claim according to the civil court procedure.

2. In case civil claim was not considered during the criminal procedure, the civil claimant shall have the right to submit the same civil claim according to the civil court procedure.

Article 36.5. Satisfying civil claim

1. In case the court decided to satisfy the civil claim and there has not been any other measures taken to satisfy such claim, the court may take measures to satisfy the claim until the court decision comes into force.

2. In case any civil claim has not been submitted but it is found that damage has incurred due to the criminal act, the court shall specify in its convicting decision that the person has the right to submit civil claim according to the civil court procedure.

Article 36.6. Introduction part of court decision

4. The introduction part of court decision shall include the following:

1.1. the court made decision on the name of Mongolia;

1.2. place and time of the decision made;

1.3. name of the court, composition of judicial panel, citizens' representative of the court, and secretary of the trial, parties, and participants;

1.4. case number;

1.5. Given and family names, place and date of birth, residential and work addresses, position, education, marriage status, and other relevant identification information of the defendant;

1.6. article, section, sub-section of the Criminal Code the case applicable to allegedly committed crime of the defendant.

Article 36.7. Description part of conviction decision of the court

1. Description part of the conviction decision of the court shall consist of two sections which are section about considering the defendant as guilty and section about imposing criminal penalty.

2. The section about considering the defendant guilty shall specify the following:

2.1. date, time and place, method and motivation of the crime, goal, reasons and causes for committing the crime, type of guilt, facts of the crime established during the determining of amount and characteristics of damages inflicted by the crime;

2.2. if the court considers a case that involves several defendants, the act, participation, and type of accomplice of each defendant;

2.3. content of the evidence that served as the ground for proving the guilt of the defendant, conclusion of the public prosecutor which the court considered such conclusion as relevant, important, and legitimate for the case, evidence that served as the grounds for the proposal of the advocate, and grounds that denied and negated the conclusion of the citizens' representative of the court;

2.4. legal conclusion that is made on facts of the case established by the court trial;

2.5. if some of the defendants are acquitted or some criminal acts are repealed for one defendant, grounds that negated the convicting evidence and content of the evidence that supports the negation.

3. The section about imposing criminal penalty to the defendant shall specify the following:

3.1. content of the evidence that serves as the ground for imposing criminal penalty to the defendant, aggravating and mitigating conditions, types, severity, and grounds of criminal penalty;

3.2. the regime of the prison facility if imprisonment is imposed as penalty;

3.3. grounds and content of evidence applicable to the mitigation of previously imposed criminal sentence;

3.4. grounds for or using compulsory measures according to section 1 of Article 7.2 of the Criminal Code if the defendant was acquitted from serving imprisonment;

3.5. grounds for satisfying the claim for compensation for the damages and losses incurred by the crime wholly or partly or the grounds for repealing such claim or leaving the claim without consideration;

3.6. grounds for seizing property and income obtained as as result of a crime, vehicles, firearms, and other specially improvised weapons used for crime.

Article 36.8. Resolution part of conviction decision of the court

1. The resolution part of the conviction decision shall include the following:

1.1. clause, section or article of the Criminal Code for which the defendant is guilty of committing a crime;

1.2. restraining measures taken for the defendant, type and severity of sentence, degree and severity of the criminal punishment to be served as determined in the Article 6.1 of the Criminal Code;

1.3. the regime of the prison facility if imprisonment is imposed as a penalty;

1.4. calculation of how the duration of arrest and other restraining measures included in calculation of the criminal penalty in case such arrest or other restraining measure were taken for the defendant before the court makes the conviction decision;

1.5. specify if restraining measures taken for the defendant should remain valid until the court decision comes into force;

1.6. the amount and schedule of the compensation and monetary payment in case fine is imposed as penalty or the defendant should compensate the damages and losses of the crime to the victim;

1.7. grounds for satisfying civil claim for compensation for the damages and losses incurred by to the crime wholly or partly or the grounds for repealing the civil claim or leaving the claim without consideration;

1.8. resolving seized and sealed property, income, and the physical evidence;

8.6. allocation of the cost of the criminal procedure.

2. In case the defendant is accused of several crimes that are specified in multiple articles, sections, sub-sections of the Criminal Code, then each of criminal acts that are acquitted or convicted shall be indicated in the court decision.

3. In case the defendant is acquitted as released from criminal penalty, it shall be specified.

4. The court decision should specify that the public prosecutor, defendant, victim and their legal representatives and advocates shall have right to appeal or submit protest within 14 days after the receipt of the conviction decision of the court.

5. The presiding judge and judicial panel shall sign on the conviction decision of the court.

Article 36.9. Acquittal decision of the court

1. The description part of the acquittal decision shall include the following:

1.1. facts of the case established by the court, content of the evidence used in establishment;

1.2. content of the evidence that served as the ground for acquittal, grounds that the court considered such evidence as relevant, important, and legitimate for the negation or grounds that negated the conclusion of the public prosecutor, and proposals of advocate, civil representative of the court.

2. The resolution part of the acquittal decision shall include the following:

2.1. grounds for acquittal;

2.2. annulling restraining measures if any such measure was taken;

2.3. annulling any measures taken to ensure satisfaction of civil claim or probability to seizure of property if any such measures are taken;

2.4. right to claim for the damage occurred, and the time limit and judicial jurisdiction for submitting such claim;

2.5. resolution of physical evidence;

2.6. rules for appealing and protesting the court decision;

3. Grounds for the decision on damage occurred and loss incurred due to the crime made by the court shall be reflected in the description part of the court decision.

4. In case it is not proven that the defendant has committed the crime and the acquittal decision of the court was made based on such ground, then the criminal case shall be returned to the prosecutor's inspection.

/This section was amended by the law dated January 10, 2020/

5. The court decision should specify that the public prosecutor, defendant, victim and their legal representatives and advocates shall have right to appeal or submit protest within 14 days after the receipt of the conviction decision of the court.

Article 36.10. Reading the court decision aloud

1. If the open court trial is held, the presiding judge shall read the court decision aloud specifying each issue stated in sections 5.1, 5.2, 5.3, and 5.4 of Article 36.1 of this law.

2. The presiding judge shall read aloud the content of the court order together with the resolution part of the decision and close the proceeding after explaining other necessary issues.

3. The defendant and other individuals who are present in the courtroom shall stand while hearing the court decision.

4. The order shall come into force once it is read aloud.

5. In case the defendant does not have the command of Mongolian language, a translator or interpreter shall translate or interpret the court decision to his/her mother language or a language that he/she has good command of, after the court decision is read aloud.

6. In case the trial is conducted as closed to public, the resolution part of the court decision shall be read aloud as open to public.

Article 36.11. Releasing detained defendant

1. In case defendant is acquitted, released from serving criminal penalty, imposed probation without detention, imposed penalties other than imprisonment, or case is repealed, the defendant who was detained shall be released from detention.

Article 36.12. Changing restraining measures

1. Once a court decision is made by proving that defendant is guilty of committing the crime, the court may change the restraining measures taken for the defendant based on proposal of the public prosecutor, the defendant, his/her legal representative and advocate.

Article 36.13. Handing over the court decision

1. After reading the court decision aloud, acquittal or conviction decision of the original version of the court shall be produced in writing within 15 days and shall be handed over to the public prosecutor, defendant, victim, civil claimant, civil respondent, and advocate.

2. Other participants aside from those stated in section 1 of this Article who requested to receive the court decision shall be notified by the court to arrive and receive the decision within 7 days from the issuance.

3. The court decision shall be translated into his/her mother language or a language that he/she has good command of, for the defendant who does not have command of Mongolian language and shall be handed over together with the original Mongolian version of the decision within the period set forth in section 1 of this Article.

4. If participants failed to receive the court decision within the period specified in sections 1 and 2 of this Article, the decision shall be delivered according to Article 11.9 of this law.

Article 36.9. Correcting clerical error of the court decision

1. Clerical errors including typographical errors, mistakenly written words, figures, and calculations in the court decision can be corrected upon the proposal of the public prosecutor or request of the defendant, his/her legal representative or advocate submitted to the court, or by the court on its own initiative.

2. The court shall immediately discuss and review the clerical errors stated in section 1 of this Article shall and make correction.

3. The presence of participants and the public prosecutor may be allowed in the discussion of review stated in section 2 of this Article.

4. In case the court decision is corrected, it shall be handed over according to Article 36.10 of this law.

5. Decision on correcting clerical errors of the court decision shall specify how the errors were corrected and judicial panel shall sign on it.

CHAPTER THIRTY SEVEN

ENFORCEMENT OF COURT DECISION

Article 37.1. Court decision comes into force

1. Decision of the first instance court shall come into force in the following occasions:

1.1. at the expiration of the period for filing appeal or protest in case parties and participants have not lodge appeal or protest within the period set forth in Article 38.2 of this law;

1.2. appellate instance court reviewed appellate complaint and/or protest and decided to affirm the decision of the first instance court or modified the decision.

2. In case the decision of the first instance court is appealed, the enforcement of the court decision shall be suspended.

Article 36.2. Enforcement of court decision

1. In case no appeal and protest is lodged within the period set forth in this law, the court decision shall be enforced as soon as such period expires.

2. If an appeal or protest is lodged against the court decision, the court decision shall be enforced from the day that the decision of the appellate instance court comes into force.

Article 36.2. Implementing of court decision

1. Corporation, organization, officials, individuals, and legal entities shall implement the legally valid court decision.

Article 37.4. Delivery of the legally valid court decision

1. The court decision shall be delivered to the organization for enforcement of court decisions within 5 working days once the decision comes into force according to this law.

2. Organization and officials that received the court decision which is stated in section 1 of this Article, shall immediately notify of the receipt to the prosecutor.

Article 37.5. Deferral of the implementation of a conviction decision of the court

/This section was amended by the law dated January 10, 2020/

1. The court may defer the enforcement of its conviction decision up to 2 years in case the decision convicts a juvenile, pregnant woman, mother of a child under the age of three, or single father who has committed a crime for the first time. During this deferral period, the court decision enforcement organization shall monitor the convict.

2. When deferring the enforcement of the conviction decision of the court for the juvenile defendant who has committed a crime for the first-time, the court may apply compulsory measures specified in sections 2 and 3 of Article 7.3 of the Criminal Code by assigning an obligation or restricting their rights.

3. In case the juvenile convict whose sentence is deferred has failed to fulfill assigned obligations or violated restrictions during period of deferral, the court shall terminate the decision on deferral of the enforcement of conviction decision of the court based on the prosecutor's conclusion and make decision to impose imprisonment as penalty to serve.

4. If an convicted parent avoids his/her parental duty to care their child, the court shall terminate the deferral of the enforcement of the conviction decision of the court based on the prosecutor's conclusion and make decision to impose imprisonment as penalty to serve.

5. If a convict intentionally commits a crime during the deferral period, the court shall impose a penalty under Article 6.9 of the Criminal Code.

6. If a person stated to section 1 of this Article has not violated obligations and restrictions assigned by the court during the period of deferral of enforcement of the court decision, the court shall release him/her from penalty upon the prosecutor's conclusion.

Article 37.6. Early release from imprisonment and setting surveillance

1. Issues related to early release from imprisonment specified in Article 6.12 of the Criminal Code shall be resolved by the court of the territorial jurisdiction of the prison facility upon the submission of prosecutor's conclusion which is based on recommendation of the prison administration.

2. When a convict is released early from imprisonment, surveillance shall be set for the duration equal to the unserved term.

3. During the surveillance period, an obligation may be assigned to the convict who is released early from imprisonment, but violation of such obligation shall be subject to termination of the court decision on setting surveillance based upon conclusion of the prosecutor, then the court shall decide to continue serving the remainder of the term in imprisonment.

4. If a person released from the imprisonment commits intentional crime during the surveillance period, the court shall impose penalty for the newly committed crime in addition to unserved term according to procedures set forth in Article 6.9 of the Criminal Code.

6. Once the decision on early release from imprisonment is made, the defendant shall be immediately released, and the release shall be notified and the personal file shall be delivered to the organization for enforcement of court decision of the residential territory of the released person.

6. Once the decision on early release from imprisonment is made, the convict shall be immediately released, and the release shall be notified and the personal file shall be delivered to the organization for enforcement of court decision of the residential territory of the released person.

7. An advocate may lodge a complaint and prosecutor may submit a protest against the court decision on early release from imprisonment.

Article 37.7. Release from imprisonment or restriction on the freedom of movement sentence due to illness

1. In case criminal penalty is not applicable due to the grounds stated in Article 6.13 of the Criminal Code, the prosecutor shall have an expert opinion issued according to rules set forth in Chapter 26 of this law based upon the proposal of the organization for enforcement of court decision.

2. Grounding on the prosecutor's conclusion issued upon the expert's conclusion and proposal of the organization stated in section 1 of this Article, a judge shall make decision to apply compulsory medical measures by keeping the convict in specialized psychological facility or other medical institutions or to release the convict from serving the remainder of the term of imprisonment to which the convict was sentenced.

3. Once the court makes decision to release from the sentence due to illness, the convict shall be immediately released.

4. Based on the conclusion made by the prosecutor, the court shall resolve the issues related to imprisonment of the defendant specified in sections 4 and 5 of Article 7.4 of the Criminal Code.

Article 37.8. Discharge and mitigation of criminal sentence

1. In case a criminal penalty for certain crimes has been reduced or certain act or omission is no longer considered as a crime, the court shall discharge the convict or mitigate the sentence.

Article 37.9. Release of convict who is sentenced to life imprisonment

1. After 25 years has been served by the convict who is sentenced to life imprisonment, the court shall decide whether to release the convict considering the circumstances of the committed crime, losses and damages incurred by the crime, characteristics of the damage, and personal characteristics of the convict.

2. In case the convict is not released according to decision set forth in section 1 of this Article, the release shall be discussed every two years.

3. The administration of the prison facility shall submit a proposal about release of a convict who is sentenced to life imprisonment one month prior to the term set forth in section 6 of Article 56 of the Criminal Code.

4. After reviewing the proposal stated in section 3 of this Article, the prosecutor shall submit conclusion about the following to the court:

4.1. release from imprisonment; or

4.2. refusal from the release.

5. When deciding to release a convict who is sentenced to life imprisonment, the court shall comply with rules set forth in Article 37.6 of this law.

Article 37.10. Changing the sentenced regime of prison facility

1. Based on the conclusion of the prosecutor, the court shall decide to transfer a convict from open prison facility to closed one or vice versa considering the open and closed regimes of the prison facilities are stated in Article 5.6 of Criminal Code.

2. The court decision stated in section 1 of this Article shall be made by the court of the territorial jurisdiction where the court decision is enforced.

Article 37.11. Common grounds for resolving issues related to enforcement of the conviction decision of the court

1. Replacement of the fine or community service sentence with imprisonment sentence, or other unclear issues related to the enforcement of the conviction decision of the court shall be resolved or clarified by the court that made the conviction decision within 15 days from the notification of the issue to such court.

/This section was amended by the law dated January 10, 2020/

2. In case the conviction decision of the court is enforced in a territory that is not in the territorial jurisdiction of the court that made such decision, the court of same competence that has the proper territorial jurisdiction over the enforcement of the conviction decision shall resolve issues stated in section 1 of this Article, or the issue shall be resolved by higher instance court if any court with same competence is not available for the territorial unit, and the decision shall be delivered to the court that made the initial decision.

3. Replacement of the fine, community service, or restriction on the freedom of movement sentence with imprisonment sentence, early release from imprisonment and setting surveillance, and release from imprisonment or deprivation of travel rights sentence due to illness shall be resolved by the court of territorial jurisdiction where the enforcement of the court decision takes place notwithstanding what court made the initial decision.

/This section was amended by the law dated January 10, 2020/

Article 37.12. Procedure for resolving issues related to enforcement of the conviction decision of the court

1. Issues related to execution of the conviction decision of the court shall be resolved by the court that made such decision within 15 days after the notification of the issue to such court. If the convict, his/her advocate requests to be present at the trial, such request shall be satisfied.

2. The presence of the victim can be allowed during the court trial held to resolve the unclarity of in the part of a court decision which determines compensation for the damages and losses incurred by the crime.

3. When resolving issues related to release of the defendant from imprisonment or restriction on the freedom of movement sentence due to illness, or transferring convict to medical institutions, the court may ensure the presence of the expert witness who issued relevant expert opinion according to rules set forth in Chapter 27 of this law.

4. When resolving issues related to changing the fine, community service, or restriction on the freedom of movement sentence with the imprisonment sentence, early release from imprisonment and setting surveillance, a representative of the organization for enforcement of court decision shall be present.

/This section was amended by the law dated January 10, 2020/

5. The process of resolution of the case shall start with the information provided by the judge, and the court shall make its decision after hearing the request of participants and conclusion of the prosecutor.

6. In case the prosecutor, defendant and his/her advocate disagree with the court decision on the execution of the conviction decision of the court, they may lodge appeal or submit a protest.

PART VIII

PROCEEDINGS IN COURTS OF APPELLATE AND CESSATION INSTANCES

CHAPTER THIRTY EIGHT

APPEALING THE COURT DECISION

Article 38.1. Right to appeal or protest

1. Defendant, victim, their advocates and legal representative shall have the right to appeal and the public prosecutor or an upper-level prosecutor shall have a right to protest against the court decision.

2. An advocate shall have the appeal familiarized by his/her customer before the advocate submit the appellate complaint to the court.

3. The prosecutor, upper-level prosecutor, victim, his/her legal representative, defendant, his/her legal representative, and their advocates shall clearly write their grounds for protest and appellate complaint.

4. A person who is acquitted shall have the right to appeal against reasons and grounds of acquittal specified in the acquittal decision of the court.

5. The right to appeal of civil claimant, civil respondent, their representative and advocate shall only be applicable to parts of the court decision that is relevant to the civil claim.

Article 38.2. Process of appeal or protest to the court of appellate instance

1. Appeal and protest against the court decision shall be filed in writing by the prosecutor, upper-level prosecutor, and participants of the criminal procedure to the court of first instance which made

such decision, within 14 days after handing over the decision of the court of first instance or since such decision is delivered according to Article 11.9 of this law.

2. In case a detained convict files an appellate complaint, the administration of the detention center shall verify the complaint and send it to the court of proper jurisdiction within the following working day.

3. The court shall not receive complaint that is submitted after the expiration of the period stated in section 1 of this Article.

4. If the failure to observe the time limit for appeal is reasonably excusable, then persons who have right to lodge appellate complaint and protest shall submit their request about restoration of expired period to the court that made the initial decision.

5. When resolving the request for restoration of the expired period, the court may summon the person to have the explanation. Person who has submitted such request shall have obligation to prove the reasonable excuse for expiration of term.

6. In case there is a reasonable excuse, the court shall make a decision to restore the expired period.

7. In case the court decision on repealing the request for restoration of expired period is not agreed, a compliant may be lodged to the court of appellate instance.

8. If the court of appellate instance restored the expired period for lodging appellate complaint or protest, the court shall deliver relevant decision to the court that made the first instance decision to have the case resolved according to the complaint and/or protest or to implement measures stated in Article 38.3 of this law.

Article 38.2. Notifying about the appellate complaint or protest by the court

1. The court that received appellate complaint and/or protest, shall deliver the copy of the complaint and/or protest to the prosecutor and participants within the following working day.

2. The copy of appellate complaint and/or protest shall be delivered to a detained defendant.

3. The prosecutor and participant may provide appellate argument within 7 days after handing over the copy of the complaint and protest lodged through appellate procedures.

4. The content of the appellate argument stated in section 3 of this Article shall be within the scope of the appellate complaint or protest.

5. The court shall notify about the appellate argument to the persons who has lodged appellate complaint and protest within the next working day.

Article 38.4. Furthering case to the court of appellate instance

1. As soon as the period for appealing, protesting against the decision of the court of first instance and providing appellate argument against such appeal and protest expires, the court of first instance shall further the case file to the court of appellate instance according to proper jurisdiction by attaching appellate complaint, protest, and relevant appellate argument.

2. Cases furthered to the court of appellate instance shall be distributed to judges according to to the case distribution rule set by the meeting of all judges of such court.

/This section was amended by the law dated January 10, 2020/

Article 38.2. Withdrawal of appellate complaint or protest submitted to the court of appellate instance

1. The prosecutor, upper-level prosecutor, and participant may withdraw their appellate complaint or protest submitted to the court of appellate instance before the case is presented to the court by a judge.

2. An advocate should not withdraw the appellate complaint without permission of his/her client.

3. The court shall notify the parties about the withdrawal of appellate compliant and protest within the following working day.

CHAPTER THIRTY NINE

PROCEEDINGS IN THE COURT OF APPELLATE INSTANCE

Article 39.1. Competence of the court of appellate instance

1. When reviewing appellate complaints and protests, the court of appellate instance shall review the all processes and the whole decision.

2. The court of appellate instance shall not use facts that were not reviewed, established and/or evidence that is not examined by the court of first instance as the ground for its decision.

3. The court shall consider the case as a whole without limiting its competence by the issues reflected in the appellate compliant and protest and regardless of the event that any other convict or person acquitted has submitted appellate complaint or protest.

4. The court of appellate instance may reduce the sentence imposed to the defendant by changing the criminal punishment stated in relevant article, section, and sub-section of the Criminal Code or reduce the sentence without changing the such parts of the Criminal Code.

/The Constitutional Court of Mongolia concluded that the part of this section states "... increase the sentence ..." is not compliant with the Constitution of Mongolia by its conclusion number 3 dated March 13, 2019 and such conclusion was accepted by the parliament of Mongolia by the State Great Khural's Resolution number 27 dated March 26, 2019.

/This section was amended by the law dated April 25, 2019/

5. The court of first instance, prosecutor, and investigator shall be obliged to enforce the decision of the court of appellate instance made in relation to the criminal procedure.

6. Upon reviewing the appellate complaint and protest, the court, shall set the date for the court trial if such court considers that there is a ground to review the case at the court trial.

7. In case the following grounds are established, the court shall not review the case at the trial of court of appellate instance and make relevant decision:

7.1. person who submitted appellate complaint or protest is not an individual or legal entity that has legal competence to submit such complaint and protest to the court of appellate instance;

7.2. period for submitting appellate complaint and protest has expired;

7.3. issue does not fall under the jurisdiction of the court of appellate instance;

7.4. previous court decision that resolved the same case by appellate instance rules, remains valid;

7.5. person who submitted appellate complaint or protest has withdrawn such complaint and protest.

8. The decision stated in section 7 of this Article is not agreed, the prosecutor and participants may lodge complaint according to rules set forth in sections 3 and 4 of Article 15.8 of this law.

Article 39.2. Time limit for resolving case in the court of appellate instance

1. An appellate instance court shall consider and make decision on a case within 30 days after the receipt of appellate complaint or protest from the first instance court.

2. The chief justice may extend the time limit by up to 30 days considering the complexity of the case.

3. The date and place of the appellate instance court trial shall be notified at least 3 days before the trial to the prosecutor and participants who requested to be present at the trial.

Article 39.3. Presence at the appellate instance court trial

1. The presence of the prosecutor and participants shall be ensured at the appellate instance court trial upon their written request.

2. Except for the event stated in section 1 of this Article, the failure to appear at the appellate instance court trial by the prosecutor and participant shall not obstruct its consideration of the case.

3. If a person stated in section 1 of Article 5.3 of this law is participating in the trial, the presence of an advocate shall be ensured for such person.

4. In case court trial is postponed on the grounds specified in sections 1.1, 1.2, 1.3 and 1.4 of Article 34.15 of this law, it shall be notified immediately to the prosecutor and participants.

5. On the ground stated in section 2 of Article 34.4 of this law, the court may decide to hold a closed to public appellate instance trial.

Article 38.4. Proceedings at the appellate instance court trial

1. Opening part of proceedings at the appellate instance court trial shall be held according to rules set forth in articles 35.1, 35.2, and 35.5 of this law.

2. Presiding judge shall set the sequence for reviewing the case at the appellate instance court trial considering proposal and request of the parties.

3. Reporting judge shall report about the case under review by presenting the content of court decision, grounds of appellate complaint and/or protest without including own subjective judgments.

/This section was amended by the law dated January 10, 2020/

4. According to the sequence set by the presiding judge, grounds for appellate complaint or protest shall be explained by the person who submitted such complaint or protest, evidence shall be examined, then arguments of the participants, the conclusion of the prosecutor, the comment of the defendant, and the opinion of defense advocate shall be heard by the court.

5. When presenting their conclusions and proposals, the parties may use the records of the first instance court trial, audio-video recording, and evidence included in the case, and the parties shall also be allowed to provide new evidence related to personal characteristics of the defendant and reduction of the sentence imposed to the defendant.

6. The court may ask questions in relation to complaint, protest, and argument submitted by parties.

7. The presiding judge shall announce the end of the adversary proceeding of the trial and judicial panel shall enter the deliberation room.

8. When enforcing liability for the violation of the court trial rules, Article 33.19 of this law shall be applicable.

9. The appellate instance court trial shall be recorded according to Article 11.7 of this law.

Article 39.5. Grounds for terminating or modifying the court decision

1. In case one of the following grounds is found, the court of appellate instance shall terminate or modify the decision of the first instance court:

1.1. ground stated in the judicial decision is not supported by established facts of the case;

1.2. incorrect application of the Criminal Code;

1.3. serious violation of the Law on Criminal Procedure.

Article 39.6. When conclusion stated in the court decision is not supported by established facts of the case

1. In case one of the following grounds is found, the court shall consider that the conclusion stated in the decision of first instance court is not supported by established facts of the case:

1.1. if the conclusion is not proven by the evidence examined at the court trial;

1.2. if the court failed to consider circumstances which could have substantially influenced the conclusion;

1.3. if the court failed to provide enough grounds for the exclusion when the court decided to use one of the several contradicting evidence that has substantial significance, as the ground for the conclusion and decided to excluded the others;

1.4. if the conclusion made by the court contains substantial contradiction that have influenced or could have influenced the establishment of the guilt, the proper application of the Criminal Code, or sentencing.

Article 39.7. Incorrect application of the Criminal Code

1. In case one of the following conditions is found, it shall be considered as incorrect application of the Criminal Code:

1.1. the court failed to use properly applicable law;

1.2. the court used the law that is not applicable to the case;

1.3. the court applied law by incorrectly explaining relevant article, section, and sub-section of such law.

Article 39.8. Serious violation of the Law on Criminal Procedure

1. In case one of the following circumstances is found, it shall be considered that the court seriously violated the Law on Criminal Procedure in making decision:

1.1. the decision was made by illegal composition of the judicial panel;

1.2. the court made decision without reviewing the request about the jurisdiction of the case which request is submitted upon grounds provided by the law;

1.3. judge who should be disqualified or debarred according to articles 10.1 and 10.2 of this law participated at the trial;

1.4. regulations of articles 35.13 and 35.14 of this law were violated;

1.5. the court used evidence stated in section 8 of Article 16.3, articles 16.11 and 16.12 of this law as ground for its decision;

1.6. the court decision fails to meet requirements stated in articles 36.2, 36.3, 36.4, 36.5, and 36.6 of this law;

1.7. the case file did not include the court trial record and/or evidence attached to such record;

1.8. the resolution part of the court decision that was read aloud at the court trial is different from the resolution part of the court decision that is handed over;

1.9. the record of the first instance court trial contradicts with audio-video recording;

1.10. case was repealed for explicitly ill ground.

Article 39.9. Decision of the court of appellate instance

1. The court of appellate instance shall make one of the following decisions:

1.1. repeal appellate complaint and/or protest and affirm the decision of the first instance court;

1.2. wholly or partially terminate the decision of the first instance court and repeal the criminal case;

1.3. wholly or partially terminate the decision of the first instance court based upon grounds stated in section 1 of Article 33.3 and/or section 6.2 of Article 34.7 of this law and return the case to the prosecutor or to the first instance proceedings;

/This section was amended by the law dated April 25, 2019/

1.4. modify the court decision without increasing the criminal punishment stated in the Criminal Code and the sentence;

/The Constitutional Court of Mongolia concluded that the part of this section states "... or increase the sentence ..." is not compliant with the Constitution of Mongolia by its conclusion number 3 dated March 13, 2019 and such conclusion was accepted by the parliament of Mongolia by the State Great Khural's Resolution number 27 dated March 26, 2019.

/This section was amended by the law dated April 25, 2019/

~~1.5. modify decisions stated in sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, and 1.9 of Article 36.8 of this law.~~

/*This section was annulled by the law dated January 10, 2020/*

2. The decision of appellate instance court shall include the following:

2.1. date, addressed organization, and submitted person of the appellate complaint or protest;

2.2. names of judicial panel of the appellate instance court, names of the prosecutor, and advocate;

2.3. name of first instance court, date and reference number of the court decision;

2.4. the summary of the decision of the court of first instance;

2.5. grounds of appellate complaint and/or protest;

2.6. the content of appellate argument against appellate complaint or protest;

2.7. conclusion of the appellate instance court and grounds for such conclusion;

2.8. signatures of judicial panel.

Article 39.10. Reading aloud the decision of the appellate instance court

1. The presiding judge of the appellate instance court trial shall read the court decision aloud.

2. The presiding judge shall provide explanation about the grounds of termination or modification of convicting court decision of the first instance court and the sentence imposed.

3. In case the court decided to affirm or modify the convicting decision of the first instance court, the period of the restraining measures served by the convict shall be included into the calculation of total duration of served sentence.

4. Once the decision of the appellate instance court is read aloud, the decision shall be issued in writing within 15 days and shall be handed over to the prosecutor and participants according to Article 36.10 of this law.

Article 39.11. Enforcement of the decision of appellate instance court

1. The decision of the appellate instance court shall come into force once such decision is read aloud.

Article 39.12. Correcting clerical error of the court decision [made by the court of appellate instance]

1. Prosecutor and participants may make a request for correcting clerical errors including typographical errors, mistakenly written words, figures, and calculations in the decision of the court of appellate instance, or the court, on its own initiative, shall correct the errors according to rules set forth in Article 36.14 of this law.

CHAPTER FORTY

CRIMINAL PROCEEDINGS IN THE CESSATION INSTANCE COURT

Article 40.1. Lodging complaint or protest for cessation instance proceedings

1. Based on the following grounds against the decision of the court of appellate instance, participants of criminal procedure may submit complaint or the prosecutor or upper-level prosecutor may file a protest for cessation instance proceedings:

1.1. incorrect application of the Criminal Code by the court;

1.2 serious violation of the Law on Criminal Procedure have influenced or could have influenced the decision of the court.

/This section was amended by the law dated January 10, 2020/

2. Complaints and/or protest for cessation instance proceedings shall be submitted within 14 days after the decision of the court of appellate instance is handed over or delivered according to section 4 of Article 39.10 of this law.

/This section was amended by the law dated January 10, 2020/

~~3. Complaints and/or protest for cessation instance proceedings shall be submitted based on the following grounds:~~

~~3.1. incorrect application of the Criminal Code by the court;~~

~~3.2 serious violation of the Law on Criminal Procedure have influenced or could have influenced the decision of the court.~~

/*This section was annulled by the law dated January 10, 2020/*

4. Person who submitted complaint or protest for cessation instance proceedings may withdraw such complaint or protest before the cessation instance court starts adversary proceeding of the trial.

5. Submitting complaint or protest for cessation instance proceedings shall not serve as grounds to suspend the enforcement of the decision of appellate instance court.

6. Complaint and protest protest for cessation instance proceedings shall specify the following:

6.1. name of the court that will resolve the complaint or protest;

6.2. given and family names, and residential addresses of the individual who lodged protest, name, address, and current location of legal entity;

6.3. given and family names, official position of the person who submitted the protest;

6.4. given and last names, residential address, and other necessary information of the individual who will be present as advocate;

6.5. which decision of which court is being complained or protested;

6.6. brief content of the case as stated in the decision of first and appellate instance courts;

6.7. legal grounds and evidencing proof of the complaint and protest;

6.8. proposal and request of complaining or protesting person;

6.9. documents attached and the list of attachments.

7. In case the period for submitting complaint and protest for cessation instance proceedings has expired for a reasonable excuse, request for restoration of period shall be resolved according to rules set forth in sections 5, 6, 7 and 8 of Article 38.2 of this law.

8. The Prosecutor General and the prosecutor appointed by the Prosecutor General shall have the right to get familiarized with the case file materials in order to write a protest for cessation instance proceedings.

9. An advocate shall have the complaint for the cessation instance proceedings introduced to his/her client before delivering it to the court.

/This section was amended by the law dated January 10, 2020/

10. An advocate should not withdraw the complaint for cessation instance proceedings without permission of his/her client.

/This section was amended by the law dated January 10, 2020/

Article 40.2. Receiving complaint and protest for cessation instance proceedings

1. The court that concerned the case by the rules of the first instance procedure shall receive the complaint and protest for cessation instance proceedings and shall execute the operations stated in Article 38.3 of this law.

2. The court that received complaint and protest shall deliver the case to the Supreme Court together with complaint, protest and comments.

33. Upon receipt of complaints and protests, the court of cessation instance shall discuss them by the meeting of all judges within 21 days and the cases which four or more judges voted to review by cessation instance rules, shall be reviewed based upon resolution [of the meeting of all judges].

/This section was amended by the law dated January 15, 2021/

4. In case complaint or protest was not included in the resolution [of the meeting of all judges] stated in section 3 of this Article, it shall be considered that the court of cessation instance refused to review such complaint or protest by cessation instance rules and a resolution shall be issued accordingly.

/This section was amended by the law dated January 15, 2021/

5. The resolutions stated in sections 3 and 4 of this Article shall come into force as soon as it is signed by judges. Such decision shall be the final and non-appealable.

/This section was amended by the law dated January 15, 2021/

5.1. complaint or protest fails to satisfy requirements set forth in section 6 of Article 40.1 of this law;

5.2. the person who submitted complaint or protest for cessation instance proceedings is not an individual or legal entity that has legal competence to submit such complaint and protest;

5.3. period for submitting complaint and protest has expired;

5.4. issue does not fall under the jurisdiction of the court of cessation instance;

5.5. previous court decision that resolved the same case by cessation instance rules, remains valid;

5.6. complaint or protest for cessation instance proceedings has been withdrawn.

6. During the discussion [by the meeting of all judges] whether to review a complaint or protest by cessation instance rules, the presence of any participant or prosecutor shall not be allowed. This decision shall be the final decision.

Article 40.3. Time limit for reviewing and resolving a case at the court of cessation instance

1. After the receipt of the case file, the court shall review the case by the cessation instance proceedings within 30 days and this time limit may extended once by the meeting of all judges of the Criminal Chamber of the Supreme Court of Mongolia considering the proposal of a judge.

/This section was amended by the law dated January 15, 2021/

Article 40.4. Date of the trial [of cessation instance court]

1. The trial date of the cessation instance court trial shall be notified to the prosecutor and participants who lodged the complaint and participants who requested to be present at the court trial according to rules set forth in Article 11.9 of this law.

2. Failure to appear at court by participants of criminal procedure, except the prosecutor, shall not serve as the ground for postponing the court trial.

Article 40.5. Competence of the court of cessation instance

1. The court that is reviewing a case by cessation instance rules shall not have the right to establish any fact which was not established or which was negated by decisions made by courts of first and appellate instances or consider that such fact was proven, or to consider that any evidence more significant than others, and also shall not have right to resolve in advance any issue related to what article, section, sub-section of the Criminal Code should be applied by or what sentence should be imposed by courts of first and appellate instance courts.

2. Cessation instance court shall review whether the courts of first and appellate instances applied the Criminal Code incorrectly or serious violation of the Criminal Procedure Code by such lower instance courts have influenced the court decision or if such courts have used law by explaining such law differently than the official interpretation issued by the Supreme Court.

/This section was amended by the law dated January 15, 2021/

3. Incorrect application of Criminal Code and serious violation of Criminal Procedure Law shall refer to the statements provided in articles 39.7 and 39,8 of this law.

4. The court of cessation instance shall not review a case on the grounds other than those stated in section 3 of Article 40.1 of this law.

5. When reviewing a case by cessation instance rules, the court shall review all the proceedings and all the decisions fully.

Article 40.6. Criminal proceedings at the court of cessation instance

1. Judicial panel for reviewing a case by cessation instance rules shall be composed of five judges of the Supreme Court, and the composition of judicial panel and the presiding judge shall be appointed by preset rules.

/This section was amended by the law dated January 15, 2021/

2. The presiding judge shall open the trial by announcing names of alleged defendant and victim, the brief of the case, and ask the prosecutor and participants if they have any challenge or recusal of the judicial panel or other participants or if they have other proposals and request about the case.

3. Reporting judge shall report about the case under review and present the content of court decision, grounds of complaint and/or protest for cessation instance proceedings without including own subjective judgments.

/This section was amended by the law dated January 10, 2020/

4. The prosecutor or advocate who submitted complaint or protest for the cessation instance proceedings shall present the grounds for his/her complaint or protest.

5. Judicial panel shall ask questions and have answers from parties with permission of the presiding judge.

6. After the prosecutor introduces legal conclusion and advocate presents his/her opinion, the judicial panel shall make their decision in the deliberation room.

Article 40.7. Consultation for issuing the court decision

1. The court shall make its decision by holding closed to public consultation in the deliberation room. The presiding judge shall facilitate voting and decision making in the deliberation room and each issue shall be resolved based on the majority of votes.

2. During the consultation in the deliberation room, all judges shall have equal right of vote and shall freely express, explain their positions and proposals.

3. Judge who forms minority of the votes in the deliberation room shall have right to explain his/her grounds and to carry out another voting.

Article 40.8. Decision of the court of cessation instance

1. The court of cessation instance shall make one of the following decisions:

1.1. repeal complaint and/or protest for cessation instance proceedings and affirm the decision of the first instance court;

/This section was amended by the law dated April 25, 2019/

1.2. wholly or partially terminate the decisions of the first instance and appellate instance courts and repeal the criminal case;

/This section was amended by the law dated April 25, 2019/

1.3. wholly or partially terminate decisions of first instance and appellate instance courts based upon grounds stated in section 1 of Article 33.3 and/or section 6.2 of Article 34.7 of this law and return the case to the prosecutor or to the lower instance proceedings;

/This section was amended by the law dated April 25, 2019/

1.4. modify first and appellate instance court decisions without increasing the criminal punishment stated in the Criminal Code and the sentence;

/The Constitutional Court of Mongolia concluded that the part of this section states "... or increase the sentence ..." is not compliant with the Constitution of Mongolia by its conclusion number 3 dated March 13, 2019 and such conclusion was accepted by the parliament of Mongolia by the State Great Khural's Resolution number 27 dated March 26, 2019.

/This section was amended by the law dated April 25, 2019/

1.5. leave the complaint and protest without reviewing based on the grounds stated in section 5 of Article 40.2 of this law;

1.6. In case the court considers that the law to be applied by the court is not compliant with the Constitution of Mongolia, a proposal about submission of a request to the Constitutional Court shall be submitted to the meeting of all judges of the Supreme Court;

~~1.7. modify decisions stated in sections 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, and 1.9 of Article 36.8 of this law.~~

/*This section was annulled by the law dated January 10, 2020/*

2. The Presiding judge of the cessation instance trial shall introduce the content of court decisions stated in sections 1.1, 1.2 and 1.3 of this Article.

3. Within 30 days after presenting the decision of the cessation instance court, the reporting judge shall issue the decision in writing.

5. The presiding judge and judicial panel shall sign on the decision of the court of cessation instance.

5. Decision of the cessation instance court shall be attached to case file together with special proposal of a judge, and the copy of the decision shall be handed over according to Article 36.10 of this law to the persons who complained or protested.

Article 40.9. Correcting clerical error of the court decision

1. Prosecutor and participants may make a request for correcting clerical errors including typographical errors, mistakenly written words, figures, and calculations in the decision of the court of cessation instance, or the court, on its own initiative, shall correct the errors according to rules set forth in Article 36.14 of this law.

Article 40.10. Appealing the decision of the court of cessation instance

1. If such person considers that cessation instance court decision violated law, persons stated in Article 40.1 of this law may submit a complaint to the Chief Justice of Supreme Court within 30 days after handing over the decision of the court of cessation instance.

2. Complaint made regarding the decision of the cessation instance court may be submitted to the Supreme Court through the first instance court that initially resolved the case.

3. In case the Chief justice of the Supreme Court finds the compliant as well grounded, the Chief justice shall make a conclusion to get the complaint reviewed by the United session of cessation instance criminal judges of the Supreme Court. The conclusion of the Chief justice shall indicate characteristics of proceedings that resolved the case and the grounds to consider the court decision has violated law.

4. In case the Chief justice of the Supreme Court considers that the complaint should not be reviewed by the United session of cessation instance criminal judges of the Supreme Court, the Chief justice shall reply to the persons who lodged compliant or protest according to Article 11.9 of this law within 30 days.

Article 40.11. United session of cessation instance criminal judges of the Supreme Court

1. In case two judges who was in the composition of judicial panel of the cessation instance trial that made the court decision submitted special proposal or the Chief Justice of Supreme Court made conclusion or the Prosecutor General submitted protest, then the case shall be reviewed and resolved by the United session of cessation instance criminal judges of the Supreme Court /hereinafter the "United session of cessation instance criminal judges"/ within 30 days.

2. In the event stated in section 1 of this law, the Chief Justice of Supreme Court shall make a decision to arrange the United session of cessation instance criminal judges and set the date of the session.

3. The session stated in section 1 of this Article shall be presided by the Chief Justice of Supreme Court.

4. The United session of cessation instance criminal judges shall be considered as operative when the Chief Justice of Supreme Court and at least three quarter of all judges of the Criminal chamber of the Supreme Court participate the session.

Article 40.12. Decision of the United session of cessation instance criminal judges

1. The United session of cessation instance criminal judges, by its majority of vote, shall decide whether to terminate or modify the decision made by the cessation instance court.

/This section was amended by the law dated January 10, 2020/

2. During the consultation for decision making, Article 36.1 of this law shall be applicable.

3. In case the votes of all criminal judges are found equal, decision of the cessation instance court shall remain valid.

4. The United session of cessation instance criminal judges shall be conducted according to the rules set forth in articles 40.3, 40.4, 40.5, and 40.6 of this law, and shall make decision as stated in section 1 of Article 40.7 of this law.

5. Decision stated in section 1 of this Article shall shall come into force once such decision is read aloud.

6. Decision made by the United session of cessation instance criminal judges in which the Chief Justice of Supreme Court participated, shall be the final decision.

PART IX

EXCEPTIONAL RULES OF CRIMINAL PROCEEDING

CHAPTER FORTY ONE

REVIEWING COURT DECISION BASED ON NEWLY DISCOVERED CIRCUMSTANCES

Article 41.1. Grounds for reviewing court decision due to newly discovered circumstances

1. If following circumstances are established it shall be considered as newly discovered circumstance and a previously issued court decision that has come into force may be annulled and the criminal case can be restored:

1.1. it is established that the court made decision based on deliberately false testimony of a witness, false opinion of an expert witness or deliberately false translation or interpretation of a translator or interpreter or fraudulent, falsified, forged physical evidence, records, or documents;

1.2. it is established by legally valid court decision that an investigator, prosecutor, authorized official, or the court has gravely abused their power;

1.3. new circumstances of the case are discovered and such circumstances could have served as grounds to prove that the person who has been acquitted was actually guilty or an innocent person or legal entity has been sentenced, or such new circumstances were unknown to the court when the relevant court decision is made and could have served as grounds to apply an article, section, or sub-section [of the Criminal Code] that contains less or more severe criminal penalty;

1.4. if a human right was seriously violated due to the court decision in which application of law by the court was obviously wrong.

2. In case it is impossible to issue the court decision because the statute of limitations has expired, the Amnesty law has come into force, individual has been granted by pardon [of the President of Mongolia], or the sentenced has died, newly discovered circumstances as stated in section 1 of this Article shall be established by the rules set forth in this law.

Article 41.2. Request for review of court decision

1. The prosecutor shall receive a complaint or request about newly discovered circumstances. The prosecutor shall issue an order to initiate a criminal case by considering that a new circumstance is discovered if one of the grounds specified in Article 41.1 of this law has been established, then the prosecutor on his/her own shall notify the participants about the initiation of the criminal case and further examine newly discovered circumstances or shall assign the investigator to notify and examine so.

2. During the examination of newly discovered circumstances, the investigator shall carry out necessary investigative operations according to the rules set forth in this law.

3. In case the prosecutor considers that a criminal case should not be initiated in connection to the newly discovered circumstances, the prosecutor shall decide to reject the complaint or request about newly discovered circumstances and shall issue well-reasoned order, but the order can be appealed to the upper-level prosecutor.

4. Once the investigation of newly discovered circumstances is commenced, the duration of criminal proceedings shall be started over and the rules set forth in Article 31.13 of this law shall be applicable to extension of such period.

Article 41.3. Time limit for restitution of a criminal case due to newly discovered circumstances

1. If it is necessary to review an acquittal decision of the court or necessary to apply legal regulation [of the Criminal Code] with more severe criminal penalty to the sentenced, it shall be reviewed and applied only when one year has not passed after the discovery of the new circumstances and when the statute of limitations stated in Article 1.10 of the Criminal Code has not expired.

2. If the review of a conviction decision of the court is based on newly discovered circumstances and in favor of the defendant, then no time limit shall be applicable.

3. The death of a convict shall not obstruct the restitution of the case based on newly discovered circumstances if the case is reopened to acquit the convict.

Article 41.4. Resolving a request for restitution of criminal case proceedings due to newly discovered circumstances

1. Upon examining grounds described by Article 41.1 of this Law, the prosecutor shall issue a conclusion about the restitution of criminal proceedings due to newly discovered circumstances and shall submit the conclusion in writing to the following courts:

1.1. to the appellate instance court if the case resolved by a first instance court;

1.2. to the cessation instance court if the case resolved by a appellate instance court;

2. The court that received the conclusion about the restitution of criminal proceedings due to newly discovered circumstances, shall review the case and make decision on majority of votes.

3. If the court decides to refuse the conclusion of the prosecutor, it shall be notified to the person who requested.

4. In case court considers the conclusion of the prosecutor is reasonably grounded, the court shall terminate relevant court decision and shall make one of the following decisions:

4.1. set the jurisdiction of the court and return for another resolution;

4.2. return the case to the prosecutor's supervision.

5. The decision specified in section 4 of this Article shall be delivered to the prosecutor and participants according to Article 11.9 of this law.

Article 41.3. Criminal procedure of case restored due to newly discovered circumstances

1. Once the previous court decision is terminated on the grounds stated in section 3 of Article 41.4 of this law and criminal proceedings are restored, the criminal proceedings shall be carried out according to the usual criminal procedures for the case.

2. If the previous court decision is terminated due to newly discovered circumstances, the first instance court shall not be guided by any section of such court decision in resolving the same case.

CHAPTER FORTY TWO

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Article 42.1. Requesting for investigative operation

1. If it is necessary to execute interrogation, examination, search, experiment, seizure of property, or other criminal procedure activities provided in this law on the territory of foreign country, the matter shall be executed according to bilateral and mutual legal assistance agreements or other international agreements and treaties.

2. Request for executing investigative action shall be made through the organizations stated in the relevant international agreement or treaty.

3. Except it is otherwise provided in the relevant international agreement, the request shall be made in the language of the addressed state.

Article 42.2. Content of request for procedural actions

1. Request for execution of certain procedural action shall be made in writing and shall include the following:

1.1. name and address of the requesting organization;

1.2. name and address of the requested organization;

1.3. the description of the assistance requested;

1.4. the description of the criminal case, relevant facts that has been established during investigative operations, and the purpose of seeking legal assistance;

1.5. grounds for executing the legal assistance;

1.6. citizenship, occupation, residential address, and location of the person who is stated in the request, or the name and address if stated person is a legal entity;

1.7. physical and other evidence;

1.8. information about criminal punishment for the crime, and also the amount of damage incurred by the crime where necessary;

1.9. description of certain investigative actions to be carried out on the territory of requested state.

2. The documents and evidence attached to the request shall be translated into official language of the requested state and authorized official shall sign. Such documents and evidence can also be stamped when necessary.

Article 42.3. Summoning and interrogation of witness, victim, and expert witness

1. Unless otherwise stated in the international agreements and treaties, victim, witness, expert witness, civil claimant, and civil respondent who has citizenship of Mongolia can be summoned through the diplomatic mission of Mongolia of the relevant state when such person is temporarily or permanently residing in such country.

2. Unless otherwise stated in the international agreements and treaties, witness, victim, expert witness, civil claimant, or civil respondent who has citizenship of other country can be summoned through central state administrative body in charge of foreign affairs and competent organization of the relevant country.

3. Following penalties and compulsory measures shall not be applicable to witness, victim, and other participants stated in section 1 of this Article:

3.1. coercively bringing;

3.2. imposing penalty for their refusal or avoidance from testimony;

3.3. imposing criminal penalty for false testimony or false expert opinion.

Article 42.4. Executing request for investigative actions sought by competent organization of foreign state

1. Request for investigative actions of competent organization or official of foreign state shall be executed by the court, prosecutor, and investigator according to common rules [of criminal procedure] provided in this law.

2. If it is applicable according to international agreements, norms and normative of investigative actions of foreign state can be applied during the execution of a request.

3. If it is allowed by international agreements, the presence of a representative of relevant organization of a foreign state may be allowed in the execution of the request.

4. Unless it is stated otherwise in international agreements, a reasonable refusal together with received documents shall be returned through the Prosecutor General's Office to the requested organization of a foreign state for the following events in which the request for assistance is not executable:

4.1. if the request doesn't meet the requirements of this law and respective international agreement;

4.2. if the execution of the request would impair the sovereignty, security of Mongolia;

4.3. if the execution of the request would violate laws of Mongolia.

Article 42.5. Delivering materials of a case file to ensure continuity of inquiry or investigation

1. In case it is established that a foreign citizen has left Mongolia after committing a criminal offense on the territory of Mongolia, materials and documents collected during the inquiry or investigation shall be delivered to the relevant organization of a foreign country according to rules provided by laws and international agreements.

Article 42.6. Conducting criminal proceedings upon request

1. In case Mongolian citizen has returned to Mongolia after committing a crime on the territory of a foreign state and competent organization of such state has made request to conduct further criminal proceedings of the case in Mongolia, criminal proceedings shall be conducted according to the rules provided in this law.

2. Materials collected by competent investigative organization of a foreign country with respect to the person stated in section 1 of this Article shall be retrieved according to rules provided by laws and international agreements, and the court shall resolve if such evidence would be admissible.

CHAPTER FORTY THREE

TRANSFER OF A PERSON FOR IMPELEMTATION OF CONVICTION DECISION OF THE COURT

Article 43.1. Making request for transfer of the citizen of Mongolia

1. In case a citizen of Mongolia has left for a foreign country after committing a crime on the territory of Mongolia, the request for the transfer of such person shall be made to the competent organization of the foreign state according to rules provided by law and international agreements.

2. The request shall specify the following:

2.1. first and given names, date of birth along with evidencing documents of the person to transfer;

2.2. citizenship, description of appearance, and a photo;

2.3. the brief of the crime committed by the person, section of applicable law, and sentence imposed by court if such person is convicted;

2.4. date of the conviction decision of the court or date of the order of accusation;

2.5. certified copies of documents attached to the request.

Article 43.2. Executing the request for transfer of foreign citizen [made by a foreign state]

1. The request made by competent organization of a foreign state for the transfer of a foreign citizen or stateless person who has committed a crime or has been sentenced on the territory of foreign country shall be executed according to rules provided by laws and international agreements.

2. If the person stated in section 1 of this Article who is subject to transfer is serving an imprisonment sentence on the territory of Mongolia, the transfer may be postponed until the person completes the remainder of the sentence or is released from the sentence.

3. If such postponement of transfer would result expiration of the statute of limitation or obstruct investigation of the crime, the person can be transferred.

Article 43.3. Refusal of transfer

1. In the following occasions a transfer shall be refused:

1.1. if the person is a citizen of Mongolia;

1.2. if the person was granted by asylum in Mongolia;

1.3. if the alleged action or omission of the person would not constitute an offense in Mongolia;

1.4. the person to be transferred has previously served sentence for the same offense or the same criminal case was repealed earlier;

1.5. if the statute of limitation for the particular offense has been expired according to laws of Mongolia or circumstance which criminal proceedings should not be initiated, carried out, or the person should not be sentenced, has been established;

1.6. if there is potential danger of torture after the the transfer of the person;

1.7. if the person would be sentenced by death penalty for the crime committed under the law of the requesting county.

Article 43.4. Transfer of a person with dual citizenship or stateless person

1. Transfer of a person with dual citizenship or stateless person shall be resolved as provided by this law and international agreements and treaties.

Article 43.5. Taking pre-trial detention measure for the purpose of transfer

1. If there is legal ground for executing the request for transfer of the competent organization of foreign state, the court, upon the proposal of the prosecutor, shall resolve if such person would be arrested and detained until the transfer.

2. Date, time, and place of the transfer shall be notified by the prosecutor to the competent organization of the requesting state.

3. If the detained person who is stated in section 1 of this Article is not transferred within 30 days, the person shall be released by the court decision.

4. The person who was released as stated in section 3 of this Article can be detained again if another request has been made.

Article 43.6. Transfer of property and other evidence

1. Arms and tools used by criminals, other items that contain traces of crimes and/or obtained through criminal activities, and other necessary evidence shall be transferred along with the person when transferring a foreign citizen or stateless person to a foreign state according to rules provided in this law.

2. If the evidence described in section 1 of this Article is required for resolution of another criminal case, the transfer of evidence can be refused.

3. Regardless of requirement stated in section 2 of this Article, the evidence stated in section 1 of this Article shall be transferred when the relevant organization of foreign state has issued a guarantee to return the evidence upon resolution of the case.

CHAPTER FORTY FOUR

TRANSFER OF FOREIGN PRISONER TO THE STATE OF CITIZENSHIP FOR EXECUTION OF THE SENTENCE AND REQUESTING FOR THE TRANSFER OF MONGOLIAN CITIZEN

Article 44.1. Grounds for transfer of prisoner to the state of citizenship

1. The transfer of foreign citizen who is sentenced to imprisonment by the court of Mongolia to the country of his/her citizenship or the transfer of Mongolian citizen who is sentenced to imprisonment by a foreign court to Mongolia shall be resolved according to the terms and conditions of bilateral agreements of Mongolia concluded with respective countries or multi-lateral agreements and treaties to which Mongolia is a party.

2. Unless it is otherwise provided by laws and international agreements to which Mongolia is a party, the decision on the transfer of foreign citizen who is sentenced to imprisonment by the court of Mongolia to the country of his/her citizenship shall be made by the Prosecutor General of Mongolia and the decision shall be informed to the court that made the conviction decision and the court decision enforcement organization.

Article 44.2. Refusing the transfer of prisoner to the state of their citizenship

1. The transfer of foreign citizen who is sentenced to imprisonment by the court of Mongolia to the country of his/her citizenship can be refused for the following events:

1.1. in case none of the offensive actions for which the person has been sentenced, is constitute a crime by laws of the state of which the person is citizen;

1.2. if the sentence imposed to the person is not executable in the state of his/her citizenship because the statute of limitation has expired according to the laws of the state or for other reasons;

1.3. if the convict or the state that has requested for transfer has not implemented the civil claim of related section of the court decision or has not a guaranteed to implement so;

1.4. if agreement about transferring the sentenced person has not been reached based on terms and conditions provided by international agreements;

1.5. if the convict was a permanent resident of Mongolia;

1.6. if the convict can be sentenced by death penalty under the law of the requesting county for the crime committed.

Article 44.3. Resolving the request for the transfer of Mongolian citizen to complete the sentence in Mongolia

1. Unless it is otherwise provided by law or international agreement to which Mongolia is party, the request for the transfer of Mongolian citizen who is sentenced to imprisonment by a foreign court to Mongolia shall be presented to the Prosecutor General of Mongolia by the convict, his/her legal representative or relative, or upon the consent of the convict, by the diplomatic mission of Mongolia residing in the respective state or the competent organization of such state.

2. The Prosecutor General of Mongolia shall review the request. If the Prosecutor General proposes that the request can be satisfied, a soum, inter-soum, or district court shall make the relevant decision based on such proposal according to jurisdiction set by the Chief Justice of the Supreme Court.

3. The court decision shall specify the following:

3.1. name of the foreign court, place and date of the court decision;

3.2. location where the person last resided and was last employed in Mongolia;

3.3. the crime committed by the convict and articles, section, and subsection of law applied by the foreign court;

3.4. articles, section, and subsection of the Criminal Code of Mongolia applicable to the action of the convict;

3.5. period of term sentenced by the foreign court to the convict, type of prison unit, period of sentence to be completed in Mongolia, type of prison unit, and for compensation of damages by the convict.

4. If the period of sentence imposed by the foreign court is greater than the maximum term of imprisonment imposable by the Criminal Code of Mongolia, the term to be served in Mongolia shall be determined as the maximum term imposable by the Criminal Code of Mongolia for the particular crime.

5. In case the imprisonment sentence has been imposed by a foreign court, but imprisonment penalty is not applicable for such crime according to laws of Mongolia, the court shall resolve the case by imposing other type of criminal penalty analogous to the type and period imposed by the foreign court.

6. In case the convict was sentenced for committing several crimes by the foreign court, but none of them would constitute a crime according to the laws of Mongolia, the court shall repeal the criminal case and the person shall be discharged.

7. The court decision shall come into force once it is made and the prosecutor may submit protest against such decision.

8. The Prosecutor General of Mongolia shall deliver the court decision to the competent organization of the respective state and shall arrange the transfer of the person to Mongolia according to agreements and treaties entered by the requested state.

9. Early release, the replacement of the sentence with less severe sentence, inclusion in amnesty or granting by pardon [of the President], and other matters related to the enforcement of the court decision shall be resolved by the laws of Mongolia for the person who was transferred to Mongolia to complete the sentence according to this Article.

10. If an amnesty law has been adopted in the relevant foreign state, the law shall be applicable to a person who has been sentenced there and transferred to Mongolia, and the decision to such effect shall be made by the judge of the first instance court that has proper jurisdiction over the territory where the sentence is enforced.

Article 44.4. Limitation for the application of laws and international agreements

1. When resolving the request for the transfer of Mongolian citizen to complete the sentence in Mongolia, laws and international agreements that would degrade the legal status of such person should not be applied.

CHAPTER FORTY FIVE

REPARATION OF DAMAGES CAUSED BY UNLAWFUL ACTIONS OF THE JUDGE, PROSECUTOR, AND INVESTIGATOR DURING CRIMINAL PROCEEDINGS

/This section was amended by the law dated January 10, 2020/

Article 45.1. The right to reparations

1. Citizen of Mongolia, foreign citizen, and stateless person shall have the right to compensation for the property damages, and reparation for damages of reputation, dignity, business reputation, health and mental consequences caused by unlawful action of the investigator, prosecutor, judge and to have restored the right to pension, benefits, possession of dwelling, and other rights.

/This section was amended by the law dated January 10, 2020/

Article 45.2. Grounds for reparation of damages

1. Regardless of the guilt of the investigator, prosecutor, and judge, the state shall be responsible for eliminating the damages incurred as a result of unlawful conviction, arrest, detention, the suspension of specific activities and official duties, confinement in medical institution, the imposition of compulsory medical measures, and torture of a person.

/This section was amended by the law dated January 10, 2020/

2. The right to compensation shall be ensured for the following occasions:

2.1. it is established that the person is unlawfully arrested, detained, or engagement of the person in specific activity and official duty has been suspended illegally;

2.2. the person is acquitted and the acquittal decision of the court has been made;

2.3. the case is repealed because the act or omission does not constitute a crime, the commission of the crime by the person has not been established;

2.4. an unlawful court decision on imposing compulsory medical measures has been terminated;

2.5. it has been established that the accused was tortured.

/This section was amended by the law dated January 10, 2020/

3. Section 1 of this Article shall not be applicable in case the convict was discharged or the criminal case was repealed under the amnesty law, or the person granted by the pardon, the statute of limitation has expired, the accused has not reached the punishable age, or the act or omission is no longer considered as a crime, discharged because criminal penalty or compulsory measure has been reduced or changed by a newly adopted law.

4. The investigator, authorized official, prosecutor, or judge who has caused damages to a person shall be punished under law.

5. In case it is established that an individual has been damaged by the unlawful act or omission the person who is described in section 4 of this Article and such act or omission is found to be a crime, the property damages shall be compensated by such guilty person.

Article 45.3. Compensation of property damages

1. Following property damages shall be compensated:

1.1. salary, wage or other labor incomes that served as the main source of living for the person who did not have them due to unlawful actions;

1.2. income of the legal entity;

1.3. pensions and benefits terminated due to unlawful imprisonment sentence;

1.4. property, item, and income that are confiscated and appropriated to the state budget by a court decision, or those are retrieved by an inquiry and/or investigation organization;

1.5. fine paid for the enforcement of the conviction decision of the court, costs of procedural activities, and other costs paid by an individual or legal entity;

1.6. fee for legal assistance.

2. Damages described in sections 1.1, 1.2, 1.5 and 1.6 of this Article shall be compensated from the sources stated in law.

3. When determining the compensable amount of property damages, the salary and wages received during the service of the sentence or salary and wages received during employment in other positions after being dismissed from the previous position shall be deducted.

4. Pensions and benefits lost due to sentencing shall be paid by social insurance organization or other relevant agencies.

5. Property described in subsection 1.4 of section 1 of this Article shall be returned physically by inquiry and investigation organization, prosecutor's office, or the court. If such property is physically not available, its initial value shall be determined and compensated accordingly from sources stated in law.

6. Value of the property shall be determined by the value of the time of making decision for compensation.

7. If the property is damaged, the damages shall be fully compensated.

Article 45.4. Elimination of consequences of mental damage

1. The monetary compensation of mental damage and non-material damages shall be claimed according to rules provided by the Civil Procedure Law.

Article 45.5. Compensation of damages caused to legal entity

1. As provided in this Chapter, the state shall be responsible for damages caused to a legal entity by unlawful actions of inquiry and investigation organization, prosecutor, the court, or other officials.

Article 45.6. Providing inquiry about illegal or unlawful actions

/This section was amended by the law dated January 10, 2020/

1. In case the relevant criminal case is repealed because the acquittal decision of court has been issued, the crime was not committed, action or omission did not constitute a crime, or an accomplice in the crime was not established, then the court and prosecutor shall be obliged to explain the citizen and legal entity [which was damaged by unlawful actions] about rules of reparation of violated rights and compensation for other damages and shall provide an inquiry about the decision made by such court or prosecutor upon request of the citizen or legal entity addressing the organization where he/she works as soon as the request is received.

/This section was amended by the law dated January 10, 2020/

2. In case the conviction, arrest, detention, the suspension of specific activities and official duties, confinement in medical institution, or the imposition of compulsory medical measures is found to be unlawful after such procedural action was publicly announced in media, relevant inquiry and investigation organization, prosecutor, or court shall make correction of the announcement through public media within 7 days after the relevant decision is made.

/This section was amended by the law dated January10, 2020/

Article 45.7. Explaining the rights to compensation

1. The copy of acquittal decision of the court or the order about termination or change of unlawful decisions shall be handed over or sent by mail in compliance with Article 11.9 of this law to the person who considers that such unlawful decision has violated his/her rights and legal interests.

/This section was amended by the law dated January 10, 2020/

2. An information sheet that explains the rules of compensation for damages shall be sent together with the copy of acquittal decision of the court or order described in section 1 of this Article, and the sheet shall clearly explain the right to claim for the damage caused by actions that violated law, the statute of limitation for submitting claim to the court, and the judicial jurisdiction.

Article 45.8. Claiming for elimination of damages

1. The claim for the compensation of damages caused by unlawful actions can be brought [to the court] by the individual or legal entity on their own or legal representative or authorized representative of such person or their advocate.

2. In case a juvenile has been acquitted, the claim for the compensation of damages shall be brought by his/her legal representative or advocate.

3. The claim for compensation of property damages can be submitted within 10 years from the receipt of the acquittal decision or order on refusal of accusation.

4. The claim for restoration of other rights can be submitted within 10 years from the information sheet that explains the relevant rights is handed over to the individual.

5. In case the time limits described in sections 3 and 4 of this Article were exceeded for a reasonable excuse, the court may restore the limit based upon the request of the interested person.

6. The victim shall bring the claim to the court of the territory where he/she resides.

7. In case the claiming individual has died, his/her right to compensation of property damages shall be passed to his/her descendant and his/her non-received pension and benefits shall be passed to a family member who has the right to receive pension due to loss of the breadwinner.

8. The claim for the compensation of property damages caused to the state by unlawful actions of the inquiry or investigation organization, prosecutor, and/or court shall be brought to the court by the prosecutor against the guilty person according to rules of the Civil Procedure Law.

9. The claimant stated in this Chapter who is claiming for compensation of damages shall be exempt from the payment of any judicial cost.

Article 45.9. Resolving claim for compensation of damages

/This section was amended by the law dated January 10, 2020/

1. The claim for compensation of damages caused by actions that violated law shall be resolved under the exceptional rules stated in the Civil Procedure Law.

CHAPTER FORTY SIX

MISCELLANEOUS

Article 46.1. Entry into force of this law

1. This law shall come into force on July 01, 2017.

TS.NYAMDORJ VICE-CHAIRMAN OF THE STATE GREAT KHURAL

/P.S. Translated as of the date 27-Aug-2020/