Law No. 206 of 14th December 1997 of The Republic Of Kazakhstan

The Criminal Procedural Code of the Republic Of Kazakhstan

General Part

Section 1. General Provisions

Chapter 1. Criminal Procedural Legislation of the Republic of Kazakhstan

Article 1. Legislation Defining the Procedure for Criminal Court Proceedings

1. The procedure for criminal courts in the territory of the Republic of Kazakhstan shall be defined by the Constitution of the Republic of Kazakhstan, the constitutional laws, the Criminal Procedural Code of the Republic of Kazakhstan based on the Constitution of the Republic of Kazakhstan and generally acceptable principles and rules of international law. Provisions of other laws, which regulate the procedure for criminal court proceedings, shall be subject to inclusion into this Code.

2. International contractual and other obligations of the Republic of Kazakhstan as we as regulatory decrees of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan which regulate the procedure of criminal court proceedings shall be a constituent part of the criminal procedural law.

3. When in the course of proceedings of a criminal case a need arises to consider an issue, which must be decided in accordance with Civil or Administrative law, it shall be settled in accordance with the procedure of Civil or Administrative proceedings.

Article 2. The Application in the Criminal Court Proceedings of Legal Rules that Have Priority Force

1. The Constitution of the Republic of Kazakhstan shall have the highest legal force and direct effect in the entire territory of the Republic of Kazakhstan. In the cases of a contradiction between the rules of this Code and the Constitution of the Republic of Kazakhstan, the provisions of the Constitution shall apply.

2. In the case of a contradiction between rules of this Code and a Constitutional law of the Republic of Kazakhstan, the provisions of the constitutional law shall apply. In the case of a contradiction between rules of this Code and other laws, the provisions of this Code shall apply.

3. International treaties ratified by the Republic of Kazakhstan shall have priority over this Code and they shall be applied directly, except for the cases when it ensues from an international treaty that for its application the adoption of a law is required .

Article 3. The Effect of the Criminal Procedural Law in Space

1. Criminal proceedings in the territory of the Republic of Kazakhstan irrespective of the place of the commission of a crime shall be carried out in accordance with this Code.

2. When an international treaty, ratified by the Republic of Kazakhstan, specifies any other rules for the effect of this Code is the space, than the rules of the international treaty shall apply.

Article 4. The Application in the Territory of Republic of Kazakhstan of Criminal Procedural Law of a Foreign State

The application in the territory of the Republic of Kazakhstan of the criminal procedural law of a foreign state by the bodies of investigation and by the court of the foreign state or, in accordance with their instructions by the body which carries out the criminal procedure shall be allowed if it is provided for by an international treaty ratified by the Republic of Kazakhstan.

Article 5. The Effect of the Criminal Procedural Law in Time

1. The criminal court proceedings shall be carried out in accordance with the criminal procedural law, that entered into force by the moment of the performance of the procedural act, adoption of procedural decision.

2. Criminal procedural law, which imposes new duties, abolishes or reduces the rights which belong to the participants of the process, which restricts the use of additional conditions shall have no retroactive force.

3. The permissibility of evidence shall be determined in accordance with the law, which was in effect at the moment when the evidence was received.

Article 6. The Effect of the Criminal Procedural Law with Regard to Foreigners and Stateless Persons

1. Criminal court proceedings in respect of foreigners and stateless persons shall be carried out in accordance with this Code.

2. Special considerations in criminal court proceedings performed with regard or with the participation of persons who have diplomatic or any other privileges and immunities as established by international treaties of the Republic of Kazakhstan, shall be determined in accordance with Chapter 53 of this Code.

Article 7. Explanation of Certain Definitions Contained in this Code

The definitions contained in this Code shall have the following meaning unless there are special indications in the law:

1) «court» - the body of the judicial branch, any legally established court being a part of the judicial system of the Republic of Kazakhstan, which handles cases collegially or individually;

2) «the court of first instance» - a court which considers criminal cases with regard to their essence;

3) «appellate instance» - a court of the second instance which handles cases on the bases of appellate complains (protests) against sentences which have not entered into legal force, decrees of courts of the first instance;

4) «cassation instance» - a court of second instance which handles cases on the bases of cassation complaints, protests sentences which have not entered into legal force, decrees of court of first instance and against sentences and decrees of the appellate court;

5) «supervisory instance» - court which handles cases in the procedure of supervision based on complaints, protests of parties against judicial decisions of preceding court judicial instances, that entered into legal force;

6) «judge» - the carrier of judicial power; professional judge appointed or elected to this office in accordance with the procedure established by law, (the chairman of the court, chairman of a judicial collegium, court member or any other judge of the relevant court);

7) «chairman» - the judge who is chairing in the case of a collegial consideration of a criminal case or who considers the case individually;

8) «principal court discovery» - consideration of a criminal case with regard to its essence by the court of first instance;

9) «participants of the procedings» - bodies or persons who perform criminal prosecution and support of prosecution in the court as well as persons who protect in the course of process of the criminal cases their rights and interests or the rights and interests represented by them: procurator (state prosecutor), detective, the body of inquest, inquest officer, suspected, accused, their legitimate representatives, defence, civil defendant, his legitimate representative and representative, the victim, plaintiff, private prosecutor, civil plaintiff, their legitimate representatives and representatives;

10) «the body that carries out the criminal procedure» - court and also in the case of pre-judicial proceedings in criminal cases, procurator, detective, the body of inquest, inquest officer;

11) «parties» - bodies and persons who exercise in a judicial discovery on the basis of competitiveness and equality prosecution (criminal prosecution) and protection from prosecution;

12) «the prosecuting party» - the bodies of the criminal prosecution as well as the victim (private prosecutor), civil plaintiff, their legitimate representatives and representatives;

13) «criminal prosecution (accusation)» - procedural activities performed by the prosecuting party for the purposes of establishing the act prohibited by the criminal law and of the person who committed it, the guilt of the latter in the commission of the crime as well as for ensuring the application to such a person of punishment or other measures of criminal law reprisal;

14) «the bodies of criminal prosecution» - procurator (state prosecutor), detective, the body of inquest, inquest officer;

15) «inquest» - procedural form of pre-judicial activity of the bodies of inquest within the bounds of powers established by this Code with regard to detecting, establishing and fixing the set of circumstances of cases and holding persons who committed crimes responsible in the criminal procedure;

16) «preliminary investigation (preliminary investigation)» - a procedural form of pre-judicial activities of the authorised bodies within the bounds of their authority as established by this Code with regard to discovery, establishing and fixing the set of circumstances of cases and holding the persons who committed crimes responsible through the criminal procedure;

17) «jurisdiction» - the set of features as established by this Code in accordance with which the investigation of a certain crime is conferred to the authority of one or another body of preliminary investigation or inquest;

18) «the defendant party» - the suspected, the accused, their legitimate representatives, defence, civil defendant and his representative;

19) «defence» - procedural activity exercised by the defence party for the purposes of securing the rights and interests of persons who are suspected in commission of crime, for refuting or mitigating accusation as well as rehabilitation of persons who were unlawfully subjected to criminal prosecution;

20) «petitioner» - a person who petition to the court or bodies of a criminal prosecution for protection in the procedure of criminal court proceedings of his, (somebody else's actual or intended rights);

21) «representatives» - persons authorised to represent legitimate interests of the victim, civil plaintiff, civil defendant, by virtue of law or agreement;

22) «legitimate representatives» - parents, adopters, guardians, tutors of the persons suspected, accused, victim, civil plaintiff as well as representatives of organisations and persons under whose guardianship or tutelage the suspected, accused or victim are;

23) «relatives» - persons who are in kinship relations, who have ancestors up to grate grand father and great grand mother;

24) «close relatives» - parents, children, adopters, adopted, full brothers and sisters and half brothers and sisters, grand father, grand mother, grand children;

25) «other persons who participate in the criminal process» - secretary of a judicial session, translator, witness, appointed witness, expert, specialist, bailiff;

26) «criminal case» - special procedure which is carried out by a body of criminal prosecution and by the court due to one or several presumably committed crimes;

27) «proceedings on cases» - set of procedural acts and decisions performed in specific criminal cases in the course of its institution, prejudicial preparation, judicial investigation and execution of the sentence (decree) of the court;

28) «pre-trial proceedings on criminal cases» - proceedings with regard to a criminal case from the moment of the institution of a criminal case until it is sent to the court for the discovery of the essence (inquest and preliminary investigation) as well as preparation of materials associated with the criminal case by the private prosecutor and the defence party;

29) «materials of a case» - documents and items which are constituent parts of a case and presented for the attachment to it; communications as well as documents and items which may have significance for establishing circumstances associated with the case;

30) «procedural acts» - acts which are performed in course of a criminal court proceedings in accordance with this Code;

31) «protocol» - procedural documents in which procedural acts are fixed as committed by the body that leads the criminal process;

32) «procedural decisions» - acts of application of the criminal procedural law as passed by the bodies that lead the criminal process within the bounds of their authority and expressed in the form defined by this Code - sentences, decrees, statements, presentations, sanctions;

33) «decree» - any decision of the court aside from the sentence: a decision of the inquest officer, detective, procurator as adopted in the course of pre-trial proceedings on criminal cases;

34) «sentence» - a court decision which is passed in the principal court discovery by the court of the first instance or at a meeting of the appellate court with regard to issues of guilty or not guilty with regard to the accused, an application or non-application to him of the punishment;

35) «final decision» - any decision of the body that leads a criminal process which exclude the beginning or continuation of proceedings on the case and also deciding although not finally the case with regard to its essence;

36) «sanction» - act of approval by the procurator, court of procedural decisions as adopted by the body of criminal prosecution in the course of pre-trial proceedings;

37) «explanation» - verbal or written motivation brought up by participants of the process and petitioners to substantiate their claims or claims of the person they represent;

38) «complaint, protest» - act of reaction of participants of the process to acts of the bodies of inquest, preliminary investigation, procurator or court which is passed within the bounds of their authority and in accordance with the procedure as defined by this Code;

39) «petition» - a request of a party or petitioner addressed to the body that leads the criminal process;

40) «scientific and technological facilities» - devices, special instruments, materials which are legitimately used for discovery, fixation, seizure and investigation of evidences;

41) «special knowledge» - knowledge which is not common in the criminal process as acquired by a person as a result of professional training or work under certain profession as used for deciding tasks of criminal court proceedings;

42) «housing» - premises or structures for temporary or permanent residence of one of several persons in particular: owned or leased apartments, homes, garden homes, hotel room, a ship compartment and attachments; terrace, galleries balconies, basements and attics of housing structures which are adjacent to them, except for multi-apartment buildings as well as riverine or marine vessel;

43) «night time» - a period of time from twenty two p.m. up to six a.m. of local time.

Chapter 2. Assignments and Principles of the Criminal Procedure

Article 8. Objectives of the Criminal Procedure

1. Quick and full revelation of crimes, exposure and holding responsible the persons who committed them, just, judicial investigation and accurate application of the criminal law shall be recognised as the objectives of the criminal procedure.

2. The procedure for proceedings associated with criminal cases as established by the law must provide for the protection from unreasonable accusation and conviction, from illegal restriction of rights and freedoms of individuals and citizens, and in the case of unlawful accusation or conviction of an innocent person - immediate and full rehabilitation of him, and also to assist the strengthening of legality and law and order, prevention of crimes, formation of a respectful attitude towards law.

Article 9. The Meaning of Principles of the Criminal Process

The meaning of the principles of the criminal process consists in their violation in relation to its nature and materiality shall entail the recognition of proceedings on a case which took place as invalid, abolition of decisions passed in the course of such proceedings, or the recognition of the materials collected in this case as having no force of evidence.

Article 10. Legality

1. The court, the procurator, the detective, the body of inquest and the inquest officer when handling criminal cases shall be obliged to precisely comply with the requirements of the Constitution of the Republic of Kazakhstan, this Code and other regulatory legal acts as indicated in Article 1 of this Code.

2. Courts shall not have the right to apply regulatory legal acts which infringe the rights and freedoms of individuals and citizens as specified by the Constitution. When a court finds out that a law or any other regulatory legal act which is subject to application infringes the right and freedoms of an individual or a citizen as specified by the Constitution, it shall be obliged to suspend the proceedings on the case and to petition to the Constitutional Council with a presentation to recognise a given act as non-constitutional.

3. The violation of the law by a court, bodies of criminal prosecution when handling criminal cases shall not be allowed and it shall entail the liability as established by the law and recognition as invalid of illegal acts and their abolition.

Article 11. Only the Court Dispenses Justice

1. Justice in criminal cases in the Republic of Kazakhstan shall be dispensed only by the court. The misappropriation of the powers of the court by anyone shall entail the liability as provided for by the law.

2. No one may be recognised as guilty in the commission of a crime and also subjected to criminal prosecution otherwise than pursuant to a court sentence and in accordance with the law.

3. The authority of the court, the bounds of it's jurisdiction, the procedure for its exercise of criminal court proceedings shall be defined by the law and they may not be arbitrarily changed. The institution of emergency or special purpose courts under any titles for the handing of criminal cases shall not be allowed. Sentences and other decisions of extraordinary courts as well as any other illegally instituted courts shall have no legal force and they shall not be subject to implementation.

4. A sentence and any other decisions of the court that performed criminal court procedures on a case which is not subordinated to that court, of the court which exceeded it's powers or in any other way violated the principles of criminal court proceedings as provided for by this Code, shall be illegal and shall be subject to abolition.

5. A sentence and any other court decision in criminal cases may be reviewed and revised only by appropriate court in accordance with the procedure provided for by the Code.

Article 12. Judicial Protection of Rights and Freedoms of Individuals and Citizens

1. Everyone shall have the right to judicial; protection of his rights and freedoms.

2. No one may be changed the jurisdiction as provided for him by the law without his consent.

3. The state shall provide to the victim access to justice and compensation of harm caused in the cases and in accordance with the procedure as provided for by the law.

Article 13. Respect of Honour and Dignity of Person

1. In the proceedings on criminal cases it shall be prohibited to take decisions and acts which humiliate the dignity or diminish the honour of persons who participate in the criminal procedure, it shall not be allowed to collect, use and spread information on private life, as well as information of personal nature which the person believes necessary to keep secret for purposes not provided for by this Code.

2. Moral harm caused to person by illegal acts of the bodies that lead the criminal procedure shall be subject to compensation in accordance with the procedure established by the law.

Article 14. Inviolability of Person

1. No one may be arraigned on the suspicion of commission of crime, arrested or in any other manner deprived of freedom otherwise than on the basis and in accordance with the procedure established by this Code.

2. The arrest and the imprisonment shall be allowed only in the cases provided for by this Code and only with the sanctions from the court of the procurator with the presentation to the arrested person of the right to challenge through the court. Without procurator sanctions a person may be subjected to arraignment for a period not longer than seventy-two hours. A compulsory placement of a person not imprisoned into a medical institution for the performance of judicial psychiatric expert evaluation shall be allowed only pursuant to a court decision. Compulsory placement of a person not imprisoned into a medical institution for the performance of judicial and medical expert evaluation shall be allowed pursuant to a court decision or with the sanctions from the procurator.

3. Each detained person shall be immediately be given the basis for the detention as well as legal qualification of the crime of the commission of which he is suspected or accused.

4. The court, the bodies of criminal prosecution shall be obliged immediately release a person detained illegally or arrested or illegally placed to a medical institution or imprison for a person in excess of the period provided for by the law or the sentence.

5. Not a person from those who participate in the criminal procedure may be subjected to violence, cruel treatment or treatment which humiliates their human dignity.

6. No one may be engaged to participate in procedural acts, which create hazards of life or health. Procedural acts which violates the inviolability of person may be performed against the will of a person or his legitimate representative only in the cases and in accordance with the procedure directly provided for by this Code.

7. The detention of a person with respect of whom arrest is selected as a measure of suppression as well as of a person detained under suspicion of crime, must be carried out under conditions which exclude thread to his life and health.

8. Harm caused to a citizen as a result of illegal deprivation of freedom, maintenance in the conditions, which are hazardous for health and life, cruel treatment of him shall be subject to compensation in accordance with the procedure as provided for by this Code.

Article 15. The Protection of the Rights and Freedoms of Citizens when Criminal Cases are Processed

1. The body which leads the criminal procedure shall be obliged to protect the rights and freedoms of citizens who participate in the criminal procedure, to create conditions for their exercise, to take timely measures to satisfy legitimate claims of the participants of the procedure.

2. The harm caused to a citizen as a result of violation of his rights and freedoms in the course of processing of criminal cases shall be subject to compensation on the basis and in accordance with the procedure as provided for by this Code.

3. Where there is a sufficient evidence that a victim, witness or any other persons who participate in a criminal procedure or their family members or other close relatives are threatened by association, application of violence, destruction or harm to their property or any other dangerous illegal acts, the body which leads the criminal procedure shall be obliged within the bounds of its authority to take measures provided for by the law to protect life, health, honour, dignity and property of those persons.

Article 16. Inviolability of Private Life. The Secrecy of Letter Exchange, Telephone Conversation, Postal, Telegraph and other Communication

Private life of citizens, personal and family secrets shall be under the protection of the law. Everyone shall have the right to secrecy of personal savings and investments, letter exchange, telephone conversation, postal, telegraph and other communication. The restrictions of these rights in the course of the criminal procedure shall only be allowed in the cases and in accordance with the procedure directly established by the law.

Article 17. Inviolability of Housing

Housing shall be inviolable. The penetration of housing against the will of people who occupy it, the performance of its inspection and search shall only be allowed in the cases and in accordance with the procedure established by the law.

Article 18. Inviolability of Property

1. Ownership shall be guaranteed by the law. No one may be deprived of his property otherwise than pursuant to a decision of the court.

2. The imposition of an arrest on investments of persons in banks and on other assets as well as seizure of those assets in the course of procedural acts may be carried out in the cases and in accordance with the procedure as provided for by this Code.

Article 19. Presumption of Innocence

1. Everyone shall be deemed to be innocent until his guilt in a commission of a crime is proven in accordance with the procedure as established by this Code and is established by a court sentence that entered into legal force.

2. No one shall be obliged to prove his innocence.

3. The outstanding doubts with regard to the guilt of an accused person shall be interpreted for his benefit. Any doubts, which arise when criminal and criminal procedural laws apply, must be decided for the benefit of the person accused.

4. An accusative sentence may not be based on presumptions and it must be confirmed by sufficient amount of authentic evidence.

Article 20. Prohibition of a Repeated Conviction and Criminal Prosecution

No one may be subjected repeatedly to criminal liability for the same crime.

Article 21. The Dispensing of Justice on the Principles of Equality Before Law and Court

1. Justice shall be dispensed on the principles of everyone's equality before the law and the court.

2. In the course of criminal court proceedings no one may be subjected to any discrimination on the motives of origin, social, occupational and property status, sex, race, nationality, language, religious attitude, views, place of residence or due to any other circumstances.

3. The conditions of criminal court proceedings in respect of persons who have immunity from criminal prosecution shall be defined by the Constitution of the Republic of Kazakhstan, this Code, laws and international treaties ratified by the Republic of Kazakhstan.

Article 22. Independence of Judges

1. Judges when dispensing justice shall be independent and they shall only be subordinated to the Constitution of the Republic of Kazakhstan and the law.

2. Any interference into the activity of the court with regard to dispensing of justice shall not be allowed and it shall entail the liability in accordance with the law. Judges shall not be accountable with regard to specific cases.

3. The guarantees of the independence of judges are established by the Constitution of the Republic of Kazakhstan and the law.

Article 23. The Performance of Court Proceedings on the Basis of Competitiveness and Equality of the Parties

1. Criminal court proceedings shall be carried out on the basis of the principle of competitiveness and equality of the parties of the defence and prosecution.

2. Criminal prosecution, defence and settlement of a case by the court shall be separated from each other and they shall be exercised by different bodies and different official persons.

3. The burden of proof of presented accusation shall rest with the prosecutor.

4. The defendant shall be obliged to use all the remedies provided for by the law as well as all the methods for the protection of the person on trial.

5. The court shall not be a body of criminal prosecution, it shall not act on the side of prosecution or defence and it shall not express anyone's interests aside from interests of the law.

6. The court retaining the objectivity and impartiality shall create appropriate conditions for the performance by the parties of their procedural duties and for the exercise of the rights granted to them.

7. The parties that participate in a criminal court proceedings shall be equal that is imparted by the Constitution and this Code with equal opportunities to prove their standing. The court shall base its procedural decisions only on that evidence the participation in the examination of which on equal bases was provided for by each of the parties.

8. The parties in the course of criminal court proceedings shall select their position, methods and facilities for proving it independently and separately from the court, other bodies and persons. The court pursuant to a petition of a party shall render it's assistance in obtaining appropriate materials in accordance with the procedure as provided for by this Code.

9. The state prosecutor and the private prosecutor may exercise criminal prosecution of a certain person or it cases provided for by the law, refuse from criminal prosecution. A suspect and an accused may freely deny their guilt or to recognise them as guilty. A civil plaintiff shall have the right to refuse from a lawsuit or to enter into a peace agreement with a civil defendant.

A civil defendant shall have the right to recognise a lawsuit or to enter into a peaceful agreement with a civil plaintiff.

10. The court shall provide for the parties the right to participate in the consideration of a case with regard to the first and appellate as well as cassation instance; the person accused and his defendant shall be allowed when a case is considered, in the procedure of supervision with regard to newly open circumstances. The prosecuting party must be represented by a state prosecutor or a private prosecutor when the court is considering each criminal case. Other cases when the parties are obliged to participate in the consideration of a case by the court shall be defined by this Code.

Article 24. Comprehensive, Full and Objective Examination of Circumstances of Cases

1. The court, procurator, detective, inquest officer shall be obliged to take all measures provided for by the law for comprehensive, complete and objective examination of circumstances which are required and sufficient for correct settlement of the case.

2. Bodies of criminal prosecution shall discover actual data on the basis of which the circumstances are established which are material for the case.

3. The court which handles a criminal case keeping its objectivity and impartiality shall create for the parties of prosecution and defence appropriate conditions for the exercise of their right to comprehensive and full discovery of circumstances of the case. The court shall not be bound by the opinion of parties and it shall have the right pursuant to its own initiative to take appropriate measures for establishing truth with regard to criminal cases.

4. Circumstances which both convict and justify the accused person as well as those which mitigate or aggravate his liability and punishment shall be subject to discovery with regard to cases. The body which leads a criminal procedure must check all the statements of innocence or lesser degree of guilt as well as those concerning availability of evidence which justifies the accused person, person who is suspected or those which mitigate their liability.

Article 25. Evaluation of Evidence on the Basis of Internal Convictions

1. The judge, the procurator, detective, investigator shall evaluate evidence on the bases of their internal convictions, based on a sum of evidence considered, guided in this respect by the law and their conference.

2. No evidence shall have predetermined force.

Article 26. Securing the Right to Defence to Suspects and Accused

1. A suspect or accused shall have the right to defence. This right they may exercise either personally or with the assistance of a defendant, legitimate representative in accordance with the procedure established by this Code.

2. The body which leads a criminal procedure shall be obliged to explain the suspect, accused their rights and to ensure their opportunity to be defended from prosecution with all the remedies which are not prohibited by the law and also to take measures for the protection of their personal and property rights.

3. In the cases provided for by this Code, the body which leads the criminal procedure shall be obliged to ensure the participation in the case of a defendant of those accused or suspected.

4. The participation in criminal court proceedings of a defence and of a legitimate representative of the person suspected or accused, shall not diminish the rights which belong to the latter.

5. A person suspected or accused must not be compelled to provide testimony submission to the bodies of criminal prosecution of any materials no rendering to them of any assistance.

6. A person suspected or accused shall retain all the guarantees of the rights, which they have to defence also when a criminal case is considered with regard to a person who is accused of commission of a crime in conjunction with them.

Article 27. Release from the Duty to Issue Witness Testimony

1. No one shall be obliged to witness against himself, spouse and close relatives, the circle of whom is defined by the law.

2. Clergymen shall not be obliged to witness against those who confided in them through confession.

3. In the cases provided in the first and second parts of this Article the indicated persons shall have the right to refuse from witnessing and they may not be subjected to any liability therefore.

Article 28. Ensuring the Right to Qualified Legal Assistance

1. Everyone shall have the right to receive qualified legal assistance in the course of criminal procedures, in accordance with the provisions of this Code.

2. In the cases provided for by the law legal assistance shall be rendered free of charge.

Article 29. Publicity

1. Consideration of criminal cases in any courts and in any court instances shall be through an open procedure. The restriction of publicity of court procedures shall be allowed only when this contradicts the interest of protecting state secrets. Closed judicial procedures aside from that, shall be allowed on the basis of motivated resolution of the court in cases of crimes of minors, in cases of sexual crimes and other cases for the purposes of preventing information concerning intimate side of life of persons participating in those cases and also in the cases when it is required by the interests of safety of the victim, witness or any other participants in a case as well as their family members or close relatives. Also through a close type session cases shall be considered by the court at a pre-trial stage of the court procedure, associated with complaints related to acts and decisions of the bodies which exercise criminal prosecution.

2. Consideration of cases and complaints through close sessions shall be carried out in compliance with all the rules as established by this Code.

3. A court sentence and resolutions adopted on a case in any event shall be proclaimed publicly.

Article 30. The Language of Criminal Court Proceedings

1. Criminal court proceedings in the Republic of Kazakhstan shall be carried out in the state language and where appropriate equally with the state language the Russian language or any other languages shall be used in the court procedures.

2. Proceedings on one and the same criminal case shall be carried out in one of the languages of court proceedings as established by the resolution of the body which leads the criminal procedure.

3. To those persons who participate in a case and who have no command or have insufficient command of the language in which the proceedings on the case are carried out, it shall be explained and the right shall be ensured to make statements, provide explanations and depositions, file petitions, file complaints, peruse materials of the case, act in the court in their native language or in any other language of which they have command; to use free of change the services of an interpreter in accordance with the procedure as established by this Code.

4. To those persons who participate in a criminal case translation shall be provided free of change into the language of the criminal proceedings, of materials of the case which are needed by them by virtue of law, and which are in a different language. To those persons who participate in court proceedings translation shall be provided in the language of court proceedings of that part of court speeches which are in a different language, free of charge.

5. The bodies which lead criminal proceedings shall hand in to the participants of the proceedings the documents which in accordance with this Code must be handed into them in the language in which the court proceedings are carried out. In this case for the persons who have no command of the language of the criminal proceedings certified copy of the documents shall be attached which is in the language of court proceedings as selected by those persons.

Article 31. The Freedom to Challenge Procedural Acts and Decisions

1. Acts and decisions of a court and of a body of the criminal prosecution may be challenged in accordance with the procedure as established by this Code.

2. Each convicted person shall have the right to have his sentence revised by the upper court in accordance with the procedure as established by this Code and also to ask for pardon or mitigation of punishment.

3. It shall not be allowed to turn a complaint to harm the person who filed the complaint or to harm the person in whose interests it was filed.

Chapter 3. Criminal Prosecution

Article 32. Cases of Private, Private-Public and Public Prosecution and Accusation

1. In relation to the nature of privacy of a committed crime, criminal prosecution and accusation on the court shall be carried out in a private, private and public or public procedure.

2. Cases associated with crimes indicated in Article 33 of this Code shall be recognised as cases of private accusation, they shall be instituted not different but pursuant to the application of the victim and they shall be subject to termination if he is reconciled with the person accused.

3. Cases associated with the crimes indicated in Article 34 of this Code shall be recognised as cases of private and public accusation, they shall be instituted not different but pursuant to the complaint of the victim and they shall be subject to termination when the victim is reconciled with the person accused only in the cases provided for by Article 67 of the Criminal Code of the Republic of Kazakhstan.

4. Cases associated with the crimes, except for those indicated in second and third parts of this Article shall be recognised as cases of public accusation. Criminal prosecution in those cases shall be carried out irrespective of the submission of the complaint by the victim.

Article 33. The Crimes on which Criminal Prosecution may be Carried out in a Private Procedure

1. Criminal prosecution may be carried out in a private procedure with regard to cases concerning the crimes provided for by Articles 105, 111, 112, 120 (the first part), 121 (the first part), 123, 129, 130, 136, 140, 142, 144 (the first and the second parts), 188 (the first part), 296 (the first part), 300 (the first part) of the Criminal Code of the Republic of Kazakhstan.

2. The procurator shall have the right to institute proceedings on a case of private accusation even if there is no complaints from the victim, in the cases when the act infringes the interests of a person who is in a helpless or dependent condition or due to other reasons incapable to independently exercise the rights he has.

Article 34. The Exercise of Criminal Prosecution in a Private-Public Procedure

1. The criminal prosecution which is exercised through the private-public procedure may not be initiated and no proceedings on a criminal case may be instituted if there is no complaint from the victim in the cases of crimes provided for by Articles 103 (the first part), 104 (the first part), 117 (the first and the second parts), 120 (the second part), 135, 139, 144 (the third part), 176 (the first and the second part), 184 (the first part), 187 (the first part), 188 (the second part), 189, 200, 226 (the first part), 227 (the first part), 228, 229 (the fist part), 327 (the first part) of the Criminal Code of the Republic of Kazakhstan.

2. The procurator shall have the right to institute proceedings on a case of private-public accusation also if there is no complaints from the victim provided the act infringes the interests of the person who is in a helpless or dependent condition or who due to any other reasons is not capable to independently exercise the rights he has or it infringes material interests of other persons, public or state.

Article 35. The Holding Responsible through the Criminal Procedure Pursuant to an Application from a Commercial or any Other Organisation

When an act provided for by Chapter 8 of the Criminal Code of the Republic of Kazakhstan cause harm to the interests of a sole commercial or any other organisation which is not a state-owned enterprise and which did not cause harm to the interests of other organisations nor to the interests of citizens, public or state, the holding responsible through the criminal procedure shall be carried out pursuant to the application of the manager of that organisation or its authorised body or with their consent.

Article 36. General Terms of the Performance of Criminal Prosecution

1. For the purposes of implementing the tasks of the criminal court proceedings the body of criminal prosecution shall be obliged within the bounds of its authority in each case of

identifying the indications of a crime, to take all the measures provided for by the law to establish the event of the crime, identify the persons who are guilty of a commission of the crime, their punishment and to equally take steps to rehabilitate the innocent.

2. The body of the criminal prosecution shall be obliged to provide for the victim the access to justice and to measures to compensate for the harm caused by the crime.

3. The body for criminal prosecution shall exercise its powers in criminal proceedings irrespective of any authorities or official persons and in strict compliance with the requirements of this Code.

4. Any coercion in any form with the body of criminal prosecution for the purposes of impeding an objective investigation with regard to a criminal case shall entail the liability as established by the law.

5. The requirements of a body of criminal prosecution which are presented in accordance with the law shall be obligatory for the implementation by all state bodies, organisations, official persons and citizens. Failure to comply with said requirements shall entail the liability as established by the law.

Article 37. The Circumstances which Exclude Criminal Prosecution

1. Criminal cases may not be instituted and if it is instituted it shall be subject to termination if the following cases:

1) when there is no event of crime;

2) if there is no composition of crime;

3) consequential to an act of amnesty if it eliminates the application of punishment for acts which were committed;

4) expiry of statutes of limitation;

5) when there is no complaint from the victim - in cases associated with the crimes provided for by the first part of Article 33 and the first part of Article 34 of this Code, except for the cases provided for by the second part of Article 33 and the second part of Article 34 of this Code;

6) when the victim and the suspect or accused are reconciled in the cases provided for by Article 67 of the Criminal Code of the Republic of Kazakhstan and also in the case of private prosecutor refusal from accusation - in cases associated with the crimes provided for by the first part of Article 33 of this Code, except for the cases provided for by the second part of the same Article;

7) in respect of persons in respect of whom a court sentence exists which entered into force on the same accusation or any other uncancelled court decree which established impossibility of criminal prosecution;

8) in respect of a person on whose exemption from criminal prosecution on the same accusation and uncancelled resolution exists on the same accusation from the body of criminal prosecution;

9) in respect of a person who committed an act prohibited by the criminal law in a condition of insanity, except for the cases when the institution of a criminal case is required for the application to that parson of compulsory measures of medical nature;

10) in respect of a person who have not reached by the moment of a commission of the act of the age upon reaching of which in accordance with the law it is possible to impose criminal liability;

11) in respect of a person who died, except for the cases when proceedings on the case are required for the rehabilitation of the person deceased or investigation on the case in respect of other persons;

12) in respect of a person who is subject to release from criminal liability by virtue of the provisions of the criminal Code of the Republic of Kazakhstan.

2. A criminal case shall be terminated on the ground as provided for by paragraphs 1 and 2 of the first part of this Article both when the lack of events of the crime is proved or when there is no complete composition of crime, and also when opportunities for the collection of additional evidence do not exist or when it is not proven that they exist.

3. A criminal case shall be subject to termination on the ground provided for by paragraph 2 of the first part of this Article and in the cases when causing of harm by a person accused (suspected) is legitimate or act was committed by the person accused (suspected)

under the circumstances which in accordance with the Criminal Code of the Republic of Kazakhstan exclude his criminality and criminal liability.

4. The termination of a case on the grounds indicated in paragraphs 3 and 4 of the first part of this Article shall not be allowed when the person accused objects against it. In this case the proceedings on the case shall be continued and completed by a decree of accusative sentence when there are reasons therefore, and the accused shall be released from the punishment.

5. The body of criminal prosecution upon establishing circumstances, which exclude criminal prosecution, shall pass at any stage of pre-trial proceedings a resolution on the refusal from institution of criminal case or on termination of the criminal case. The procurator also shall have the right prior to the beginning of consideration of the case in the main court discovery to revoke it from the court and to terminate it on the reasons provided for by this Article.

6. The state prosecutor upon discovering in the court of circumstances, which exclude criminal prosecution, shall be obliged to declare refusal from accusation. The declaration of the state prosecutor to refuse accusation shall not impede the continuation of the consideration of the criminal case if the private accuser continues to maintain the accusation.

7. The court upon establishing the circumstances, which exclude criminal prosecution, shall be obliged to decide the issue on termination of the criminal case.

Article 38. Circumstances which Allow not to Perform Criminal Prosecution

1. Court, procurator as well as a detective with the consent of the procurator or a body of inquest when there are appropriate circumstances, shall have the right to terminate the criminal case and release a person from criminal responsibility on the bases of non-rehabilitating circumstances which are provided for by the Criminal Code of the Republic of Kazakhstan. The court in such cases shall also have the right to decree an accusative sentence with release from criminal liability.

2. The state prosecutor upon discovering through the court circumstances which allow not to carry out criminal prosecution, shall have the right to file repudiation from the criminal prosecution of the accused person. The repudiation filed by a state prosecutor, from criminal prosecution shall not impede the private prosecutor to continue the criminal prosecution of the person accused with the use of materials of the criminal case.

3. Prior to the termination of a criminal case the accused (suspected) person must be explained the reasons for the termination of the case and the right to object against its termination on a given reason.

4. The victim who has the right to challenge the resolution of the body that leads the criminal proceedings at the upper court or upper procurator, shall be notified by the termination of the case.

5. The termination of a criminal case of a ground indicated in the first part of this Article shall not be allowed when the suspect, accused or a victim object against it. In this case the proceedings on the case shall continue in a regular procedure.

Chapter 4. Rehabilitation. Compensation of Harm Caused by Unlawful Acts of the Body that Leads Criminal Proceedings

Article 39. Rehabilitation by Way of Recognition of Innocence of the Person Held as Accused (Suspect)

1. The person who is justified through the court and equally an accused (suspected) person in respect of whom a resolution is passed of the body of criminal prosecution on termination of a criminal case on the grounds provided for by paragraphs 1, 2, 5, 7, 8 of the first part of Article 37 of this Code shall be recognised as innocent and may not be subjected to any restrictions with regard to their rights and freedoms guaranteed by the Constitution of the Republic of Kazakhstan

2. The court, the body of criminal prosecution must take all the measures provided for by the law with regard to the rehabilitation of a person indicated in the first part of this Article and with regard to compensation of harm caused to him as a result of unlawful acts of the body that leads criminal proceedings.

Article 40. Persons who Have the Right to Compensation of Harm Caused as a Result of Unlawful Acts of the Body that Leads Criminal Proceedings

1. Harm caused to a person as a result of unlawful arraignment, arrest, home arrest, temporary barring from work, placement to a special medical institution, conviction, application of compulsory measures of medical nature shall be compensated out of the republic's budget in full volume irrespective of the guilt of the body that leads the criminal proceedings.

2. The right to compensation of harm caused as a result of unlawful acts of body that leads criminal proceedings shall rest with the following:

1) persons indicated in the first part of Article 39 of this Code;

2) persons a criminal case in respect of whom should not have been instituted and the instituted one would have been subject to termination on the grounds provided for by paragraph 6 of the first part of Article 37 of this Code, when in spite of lack of circumstances provided for by the second part of Article 33 and the second part of Article 34 of this Code the criminal case was still instituted or was not terminated from the moment of discovery of the circumstance which exclude criminal prosecution;

3) persons the criminal case in respect of whom should have been terminated due to grounds provided for by paragraphs 3 and 4 of the first part of Article 37 of this Code but was not terminated from the moment of discovery of the circumstances which exclude criminal prosecution and the criminal prosecution illegally was continued in spite of the consent of such persons to terminate a given criminal case;

4) a person sentenced to be arrested, deprived of freedom, detained or imprisoned in the case of alteration of qualification of his act for an Article of the Criminal Code of the Republic of Kazakhstan which provides liability for a less grave crime, in the case of suspicion or accusation of commission of which this Code does not allow for detention or imprisonment or with the appointment in accordance with this Article of more linear punishment from the sentence of the part of accusation and reduction in connection therewith of the punishment and equally in the case of the abolition of unlawful court decision on application of compulsory measures of medical nature or compulsory measures of educational control. The actually served term of detention or deprivation of freedom shall be deemed to have been endured illegally in as long as much it exceeds the maximum amount of punishment in the form of arraignment or deprivation of freedom as provided for by the Article of the Criminal Code of the Republic of Kazakhstan in accordance with which the act committed by the guilty person is qualified anew;

5) a person imprisoned in excess of the due period without legitimate reasons and equally a person illegally subjected to any other measures of procedural compulsion in the course of proceedings on a criminal case.

3. In the case of the death of a citizen the right to compensation of harm in accordance with the established procedure shall be acquired by his heirs and with regard to receiving pensions and benefits the payment of which were suspended, - to those family members who are recognised as the circle of persons to be supplied with the benefit due to the loss of breadwinner.

4. Harm shall not be subject to compensation with regard to persons when it is proved that in the course of inquest, preliminary investigation or discovery by way of voluntary self-accusation impeded the establishment of truth and thereby assisted the emergence of the consequences indicated in the first part of this Article.

5. The rules of this Article when there are no circumstances indicated in the paragraph 3 of its second part shall not apply to those cases when the application in respect of a person of measures of procedural compulsion or a decreed accusative sentence are abolished or altered in view of the issue of amnesty acts or pardon acts, expiry of statutes limitations, adoption of a law which limitates a given criminal liability or which mitigates the punishment.

Article 41. Harm which is Subject to Compensation

Persons indicated in the second and third parts of Article 40 of this Code shall have the right to compensation in full volume of property harm, the elimination of consequences of moral harm and restoration of labour, pension, housing and other rights. Persons who are deprived through a court sentence of an honorary, military, special or any other title, class, rank, diplomatic rank, qualification class or state awards, shall be restored the titles, class ranks, diplomatic ranks, qualification class and state awards shall be returned to them.

Article 42. Recognition of the Right to Compensation of Harm

Upon adoption a decision on full or partial rehabilitation of a person, the body that leads criminal proceedings must recognise his rights to compensation of harm. Copy of the justifying sentence or decree on termination of criminal case, on abolition or alteration of other unlawful decisions shall be handed or mailed to the interested person by post. Simultaneously notice shall be sent to him with the explanation of the procedure for compensation of harm. When there is no information on the place of residence of heirs, relatives or dependants of the deceased person who have the right to compensation of harm than notice shall be directed to them not later than five days after the day of their appeal to the body that leads criminal proceedings.

Article 43. Compensation of Property Harm

1. Property harm caused to persons indicated in the second part of Article 40 of this Code shall include the compensation of the following:

1) wages, pensions, benefits, other resources and revenues of which they were deprived;

2) property illegally confiscated or converted into benefit of the state on the basis of a sentence or any other court decision;

3) fines exacted for the implementation of an unlawful court sentence; court costs and other amounts paid by the person in connection with the unlawful act;

4) amounts paid by the person for rendering legal assistance;

5) other costs incurred as a result of criminal prosecution.

2. Amounts expensed on the maintenance of persons indicated in the second part of Article 40 of this Code under imprisonment, in places of enduring, arrest or deprivation of freedom, court expenses associated with criminal prosecution of those persons as well as wages for the performance by them during the imprisonment, during arrest or deprivation of freedom of any work may not be deducted out of the amounts which are subject to be paid to compensate harm caused as a result of unlawful acts of the body that leads criminal proceedings.

3. When receiving copies of documents indicated in Article 42 of this Code with a notice on the procedure for compensation of harm to, the persons indicated in the second and third parts of Article 40 of this Code shall have the right to petition with a claim to compensate property harm, to the body that passed the sentence, a decree on termination of case, abolition or alteration of other unlawful decisions. If a case is terminated and the sentence is altered by the upper court, the claim to compensate harm shall be directed to the court that decreed the sentence. In the case of rehabilitation of a minor, the claim to compensate for harm may be filed by his legitimate representative.

4. Not later than one month after the day of receipt of an application, the body indicated in the third part of this Article shall define amounts of harm and require in appropriate cases calculation from financial bodies and the bodies of social protection after which a resolution shall be passed on the performance of payments in compensation of given harm subject to inflation. When a case is terminated by the court when handing it in the appellate, cassation or supervisory procedure, said acts shall be performed by the court that handles the case in the first instance.

5. Claims of compensations of property harm shall be settled by the judge through the procedure as established by the second part of Article 371 of this Code for the settlement of issues connected with the decree of the sentence.

6. A copy decree certified by the state seal shall be handed to or directed to the person for the presentation at the bodies, which are obliged to make the payments. The procedure for the payment shall be defined by legislation.

Article 44. Elimination of Consequences of Moral Harm

1. The body that leads criminal proceedings and who adopted a decision to rehabilitate a person shall be obliged to surrender to him official apologies for harm so caused.

2. Law suits on compensation in a monetary expression for moral harm caused shall be filed in accordance with the procedure of civil court proceedings.

3. When a person is subjected to unlawful criminal prosecution and information on the institution of a criminal case, detention, imprisonment, temporary removal from office, compulsory placement to a medical institution, conviction and other acts undertaken with regard to him, subsequently recognised as unlawful were published in the press, spread through radio, television or any other mass communications media, than pursuant to the claim of that person and in the case of his death pursuant to claims of his relatives to the body that leads the criminal proceedings, the relevant mass communication media shall be obliged to make a needed communication within one month.

4. Pursuant to claims of the persons indicated in the second and third part of Article 40 of this Code, the body that leads the criminal proceedings shall be obliged to direct a written notice on abolition of their unlawful decisions within two weeks to the place where they work, study or reside.

Article 45. Periods for Filing Claims

1. Claims on performance of monetary payments to compensate property harms may be filed within three years from the moment of receipts by the persons indicated n the second and third parts of Article 40 of this Code of resolutions of performance of such payment.

2. Claims on restoration of any other rights may be filed within six months from the date of receipt of notices, which explain the procedure for the restoration of rights.

3. In the case of missing those deadlines due to good reasons they may be pursuant to an application of interested persons be restored by the body that leads criminal; proceedings.

Article 46. Compensation of Harm to Legal Entities

Harm caused to legal entities by unlawful acts of body that leads criminal proceedings shall be compensated by the state in full volume within deadlines as established by this Article.

Article 47. Restoration of Rights in a Law Suit Procedure

When claims on rehabilitation or compensation of harm is not satisfied or a person does not agree with the decision adopted he shall have the right to petition to the court through the procedure of civil court proceedings.

Chapter 5. Conducting Proceedings in Criminal Cases

Article 48. Merger of Criminal Cases

1. In one proceedings cases on accusation of several persons of commission or participation in one or several crimes, cases associated with accusation of persons in commission of several crimes as well as cases associated with accusation of concealment of the same crimes which were not promised beforehand or non-reporting on them may be merged in one proceeding.

2. The following must not be merged in one proceeding:

1) identical accusations of different persons;

2) accusations with regard to persons, to whom the commission of crime is ascribed with regard to each other, except for the cases where one case of private prosecution is considered;

3) cases on one of which criminal prosecution is performed in a private procedure, and in respect of the other – in a public procedure;

4) any other accusations, the cumulative consideration of which may interfere with objective investigation of the case.

3. The merger of cases shall be carried out on the basis of the resolution of the body, which leads the criminal proceedings. A copy resolution passed by the body of criminal prosecution within twenty-four hours shall be directed to the procurator.

4. The period for processing a case, in which several cases are merged, shall be calculated from the date of the institution of the case, which was latest in time. When with regard to one of cumulated cases detention under arrest or home arrest are used, as a measure of suppression, then the period of investigation shall be calculated from the date of the institution of the case, under which said measures of suppression were applied.

In the case of merging into one procedure of several criminal cases, the period for conducting preliminary hearings on them shall be calculated from the date of the receipt by the court of the latest case.

5. Persons shall have the rights of participants of proceedings only with regard to those merged cases, which pertain to them.

Article 49. Separation of a Criminal Case

1. The court, the body of criminal prosecution shall have the right to separate from a criminal case into separate proceedings another criminal case with regard to the following:

1) individual defendants, when a criminal case is subject to suspension on the basis provided for by Article 50 of this Code;

2) accused individuals when the bases for the closure of criminal proceedings associated with the protection of State secrets pertain to them, but do not pertain to other accused individuals;

3) accused miner held responsible in the criminal procedure together with adults;

4) non-established individuals, who are subject to be held responsible in the criminal procedure;

2. In the case of investigating many episode criminal cases, with regard to which periods of investigation expire or periods of arrest, the investigator upon recognising that with regard to the accusation the investigation was performed in full and comprehensively, shall have the right to separate part of the case into separate proceedings to be directed to the court, unless this impedes investigation and the handling of the case with regard to the rest of it.

3. When under a criminal case information is received on acts, which contain indications of a crime not connected to a given case, all the materials on those must be immediately separated for deciding on the issue of instituting a new criminal case in accordance with the procedure as provided for by this Code.

4. Separation of criminal cases shall be allowed if it does not infringe the comprehensiveness, the fullness of research and settlement of the case.

5. Separation of cases shall be carried out on the basis of the resolution of the body, which leads the criminal proceedings. A copy resolution passed by the body of criminal prosecution within twenty-four hours shall be directed to the procurator. The list of materials to be separated in the original or copies must be attached to the resolution.

6. The period for proceedings on a separated case shall be measured from the date of the passing a resolution on the separation of the case with regard to a new crime or with regard to a new individual. In other cases the period shall be calculated from the moment of the institution of the principal criminal case.

Article 50. Suspension of Proceeding under Criminal Cases

1. Proceedings under criminal cases may be fully or with regard to a certain part suspended by the resolution of the inquest officer, investigator or the court in the following cases:

1) the person, who is subject to be held responsible as the defendant, is not established;

2) when the defendant hid away from investigation or court or the place where he is is not established due to other reasons;

3) there is no real possibility for the participation of the person indicted in the case in connection with the decision of the issue on deprivation of the person accused from the immunity from criminal prosecution or his extradition by a foreign State;

4) temporary psychic disorder or any other serious disease of the defendant as certified in accordance with the procedure specified by the law;

5) the defendant is outside the boundaries of the Republic of Kazakhstan;

6) application of the court to the Constitutional Council of the Republic of Kazakhstan to recognise as unconstitutional the law or other regulatory legal acts, which is to be applied in a given criminal case, and which infringes the rights and freedoms of individuals and citizens as fixed by the Constitution;

7) acts of force majeure temporarily impeding further proceedings on the criminal case.

2. Proceedings on criminal cases at a court may be fully suspended or suspended with regard to their certain part by a court decision also in the event that a private prosecutor in a case of private prosecution may not exercise criminal prosecution in the court due to his grave

disease, being on trip beyond the boundaries of the Republic of Kazakhstan or performing civil duty.

3. Proceedings on a criminal case shall be suspended until the circumstances disappear, which served as the basis for its suspension. Upon the disappearance of those circumstances, the case shall be resumed by the resolution of the inquest officer, investigator or the court.

4. The participants of the proceedings on a case shall be informed of the suspension or resumption of proceedings. A copy resolution on suspension of a criminal case passed by the body of criminal prosecution, within twenty-four hours shall be directed to the procurator.

5. A suspended case shall be subject to termination upon expiry of periods of limitation as established by the criminal law, unless there is information on the case on the interruption in the calculation of the period of limitation.

Article 51. Termination of a Criminal Case

1. A criminal case shall be subject to termination by the body that leads criminal proceedings on the bases as provided for by Articles 37 and 38 of this Code.

2. Until the criminal case is terminated, the suspects or defendants shall be explained the bases for the termination and his right to file objections against termination on those bases.

3. In the case of abolishing of a resolution on termination of a criminal case, the proceedings on the case shall be resumed within the period of limitation for holding responsible in the criminal procedure.

4. The suspects, the defendant, the defence, as well as the victim, his representatives, the civil plaintiff, the civil defendant or their representatives, a physical person or a legal person, on whose application the case was instituted, shall be informed on termination of criminal cases, as well as on resumption of the proceedings on the case in writing. A copy resolution on termination of a criminal case and on resumption of proceedings on a case as passed by the body of criminal prosecution, within twenty-four hours shall be directed to the procurator.

Article 52. Completion of Proceedings on Criminal Cases

Proceedings on criminal cases shall be terminated as follows:

1) when a resolution on full termination of proceedings on a criminal case is entered into force;

2) when a sentence or any other final decision on a case – unless it requires the adoption of special purpose measures for its implementation;

3) upon receiving the confirmation of implementation of a sentence or any other final decision on a case – when it requires the adoption of special purpose measures for its implementation.

Article 53. Confidentiality

1. In the course of criminal court proceedings the measures shall be taken for the protection of information received, which constitutes State secrets (State, military and service secrets, secrecy of investigation and preliminary interrogation) and other secrets (commercial secrets, information for service use, medical, personal secrets and any other types of secrets) as provided for by this Code and other legislative acts.

2. Persons, to whom the body that leads criminal procedures, proposes to communicate or present information constituting State or any other secrets may not refuse from the performance of this requirement with the reference to the need to retain the relevant secrets, but they have the right to first receive from it explanations, which are subject to inclusion into the protocol of the relevant procedural act, to confirm the need of receipt of said information for the proceedings with regard to a given criminal case.

3. The procedure for granting access to participants of proceedings to information constituting State secrets shall be defined by legislation.

4. Evidence containing information constituting State secrets shall be examined during a closed-type court session.

5. Evidence containing information constituting other secrets as well as those disclosing intimate sides of private life pursuant to requests of persons under the threat of disclosure of said information may be examined during closed-type court sessions.

6. Harm caused to a person as a result of violation of unavailability of private life, the disclosure of family or personal secrets, shall be subject to compensation in accordance with the procedure as provided for by the law.

7. Information from interrogation and preliminary investigation shall not be subject to disclosure. They may be made public only with the permit from the body of criminal prosecution in a volume, in which it is recognised as possible, unless this contradicts the interests of investigation and is not connected to violation of the rights and legitimate interests of other persons.

8. The body of criminal prosecution shall have the right to warn the defence, witnesses, the victim, the civil plaintiff, the civil defendant and their representatives, experts, specialists, translators, hired witnesses and other persons, who are present during the performance of investigative acts, on the prohibition to disclose without his permits of information on the case. Signatures shall be received from said persons with the warning on their liability.

Chapter 6. Procedural Periods

Article 54. Calculation of Periods

1. The periods established by this Code shall be calculated in hours, days, months and years.

2. When calculating periods the hour and the twenty-four hours, with which the calculation of a period begins, shall not be taken into account. This rule shall not apply to the calculation of periods in case of detention.

3. When calculating periods they shall include non-working time as well.

4. When calculating periods in days the period shall expire within the twenty-four hours of the last day of the period. When calculating periods in months or years the period shall expire on the appropriate date of the last month, and if that month has not the needed date, then the period shall be terminated on the last day of a given month. When the termination of a period falls on a non-working (holiday, day off) day, then the last day of the period shall be recognised as the first working day, which follows after it, except for the cases when periods are calculated for detention, arrest, home arrest and being in a medical or special purpose educational and training institution.

5. When a person is detained with the suspicion of commission of a crime the period shall be calculated from the moment (hour) of actual application of this measure.

Article 55. Observing Periods

1. A deadline shall not be deemed missed if a complaint, petition or any other document are submitted to the post office, transferred or filed with the person authorised to receive them, and in the case of the persons, who are imprisoned or placed into a medical institution, - if the complaint or any other document are submitted prior to the expiry of the period to the administration of the place of the maintenance under imprisonment or medical institution prior to the expiry of the period. The time of the submission of a complaint or any other document to the post office shall be determined on the basis of the postal stamp, and the time of submission to the person authorised to receive those or to the administration of the place of the maintenance under imprisonment or a medical institution – on the basis of the note of the office or official persons of those organisations.

2. The observance of established periods by the official persons shall be confirmed by the appropriate indication in procedural documents. The receipt of documents, which are subject to be handed to persons, who participate in criminal court proceedings, shall be confirmed by their signatures attached to the case.

3. Procedural periods may be extended only in the cases and in accordance with the procedure as established by this Code.

Article 56. The Consequences of Missing a Deadline and the Procedure for Its Restoration

1. Procedural acts, which are committed upon expiry of the deadline, shall be deemed to be invalid.

2. Pursuant to a petition of interested persons the period missed due to a sufficient reason may be restored by the resolution of the inquest officer, investigator, procurator or the

judge, who handles the case. In this case the period shall be restored for the person, who missed it, but not for other persons, unless it is otherwise provided for by an appropriate decision of the body that leads the criminal proceedings.

3. Pursuant to a petition from the interested person, the implementation of a decision challenged with the missing of the established deadline may be suspended until the issue is decided on the restoration of the missed deadline.

4. A refusal to restore a period may be challenged (objected to) in accordance with the procedure established by this Code.

Section 2. State Authorities and Persons Participating in Criminal Procedures

Chapter 7. Court

Article 57. Court

1. The court, being a body of judicial branch, shall dispense justice with regard to criminal cases.

2. Any criminal case may be considered only through legitimate, independent, competent and impartial composition of the court, which is ensured by the compliance with the rules established by this Code as follows:

- determining jurisdiction of specific cases;
- formation of the composition of the court for consideration of specific criminal cases;
- rejection of judges;
- separation of the function of resolution on cases from the functions of defence and prosecution;

3. Justice in respect of criminal cases in the Republic of Kazakhstan shall be dispensed by the following:

the Supreme Court of the Republic of Kazakhstan;
the province courts and the courts equated to the province courts;
district (municipal) courts and courts equated to district (municipal) courts;
military courts.

Article 58. Composition of a Court

1. The consideration of criminal cases in first instance courts shall be carried out individually by the judge or by a collegium consisting of three judges. When justice is dispensed by the court consisting of a collegium one of them shall be the chairman.

2. The handling of criminal cases associated with the conviction of persons of commission of crimes, for which the capital punishment may be used as a measure of punishment, shall be carried out by a first instance court consisting of three judges. Other cases shall be handled by judges of first instance courts individually.

3. The consideration of criminal cases in the appellate procedure shall be carried out by a judge individually.

4. The handling of criminal cases in the cassation procedure, the procedure of supervision, as well as the revision of judicial decisions in respect of newly opened circumstances shall be carried out by the court consisting of not less than three judges.

5. The handling of criminal cases in respect of newly opened circumstances shall be carried out by a judge individually, provided the decision of the court to be revised was passed by a judge individually or by a court consisting of not less than three judges, if the decision to be revised was passed by the court consisting of not less than three judges.

Article 59. The Powers of a Court

1. The powers of a court as the vehicle of judicial branch shall be defined by the law.

2. Only the court has the right to:

1) recognise a person as guilty of commission of a crime and to sentence a punishment on him;

2) apply to a person compulsory measures of medical character or compulsory measures of educative influence;

3) abolish or amend a decision adopted by a lower court.

3. At the pre-trial stages of the criminal procedure the court shall consider complaints on decisions of the body of criminal prosecution in the cases and in accordance with the procedure as provided for by this Code.

4. If in the judicial consideration of a case circumstances are discovered, which assisted the commission of a crime, violation of the rights and freedoms of citizens, as well as other violations of law committed during the course of interrogation, preliminary investigation or when considering the case by the lower court, the court may pass partial decree, by which it draws attention of the relevant organisations, official persons or persons, who perform managerial functions, to those circumstances and to the facts of violation of law, which require the adoption of appropriate measures. When violation so discovered entail, in accordance with the law, administrative liability, then the court simultaneously with the passing of a decision on the criminal case shall have the right to impose, in accordance with the Code concerning administrative violations of the Republic of Kazakhstan, on the physical person or legal entity guilty of those violations, except for the persons, in respect of whom incriminating judgement is passed with regard to a given case, an administrative punishment.

5. The court shall have the right to pass a partial decree also in other cases, if it recognises it as necessary, and also to impose an administrative punishment in the cases provided for by this Code.

Article 60. The Judge

1. The judge, within the bounds of his authority, who handles a case individually, and who performs managerial acts with regard to the preparation of a court session or ensuring the implementation of its sentence or any other decision, who settles petitions and complaints as indicated in the third part of Article 59 of this Code, shall have the powers of the court.

2. The judge, who handles the case as a member of a collegium of judges, shall enjoy the rights, which are equal with the rights of the chairman and other judges when deciding on any issues that arise in connection with the case so handled.

Article 61. The Chairman in a Case

1. When a criminal case is considered the chairman of the court shall be chairing amongst the collegium of judges, or a chairman of the collegium of the court or one of the judges authorised appropriately in accordance with the procedure provided for by the law. A judge, who handles a case individually, shall be deemed to be the chairman.

2. The chairman shall guide the course of a session of the court, take every step to provide for just consideration of the criminal case and compliance with other requirements of this Code, as well as appropriate behaviour of all persons, who participate in a court session.

3. Ordinances of the chairman in the course of court proceedings shall be obligatory for all the participants of a process and for other persons, who are presents in the court room.

Chapter 8. State Bodies and Official Persons, Who Perform the Functions of Criminal Prosecution

Article 62. The Procurator

1. The procurator is an official person, who within the bounds of his authority, exercises the supervision of the legality of operative and investigative activities, interrogation, investigation and court decisions, as well as criminal prosecution at all stages of the criminal process: the General Procurator of the Republic of Kazakhstan, the Chief Military Procurator, procurators of provinces and procurators equated to procurators of provinces, district, municipal procurators, military procurators, transport procurators and procurators equated to those, their deputies and assistants, procurators for sectors of supervision, senior procurators and procurators of departments and units of procurator offices. Procurators, who participate in the handling of a criminal case by the court, shall represent the interests of the State by way of supporting the prosecution and the procurator shall be the State prosecutor.

2. The procurator shall have the right to present to a person indicted or to a person, who bears property responsibility for his acts, a lawsuit for the protection of the interests of the following:

1) a victim who is not capable to independently exercise the right to file and support lawsuits by virtue of his helpless condition, dependence on the defendant or due to other reasons;

2) the State;

3. The powers of the procurator during pre-trial proceedings and consideration of the case by the court, shall be defined accordingly by Articles 190, 192 (the sixth and the seventh parts), 197, 289, 317, 396 (the third part), 458, 460 of this Code.

4. When exercising his procedural powers the procurator shall be independent and he shall only be subordinated to the law.

Article 63. The Head of the Investigation Department

1. The head of the investigation department – the head of investigation unit of the body that performs preliminary investigation, his deputies, who act within the bound of their authority.

2. The head of an investigating unit shall entrust the performance of investigation to an investigator, he shall exercise supervision of the timeliness of acts of investigators with regard to criminal cases, which are handled by them with regard to the compliance by investigators with the deadlines for preliminary investigation and maintenance under imprisonment, with regard to the implementation of the instructions of the procurator, instructions of other investigators in the cases as established by this Code; he shall issue instructions with regard to cases; entrust performance of preliminary investigation to several investigators; in the cases provided for by the law he shall recuse an investigator from procedures associated with cases; within the bounds of his authority he shall seize criminal cases from one investigative unit of the body subordinated to him that performs preliminary investigation and transfer those cases to other investigative unit of the same or another body subordinated to him, and which performs preliminary investigation; sends finished criminal cases to the procurator. The head of the investigative unit shall have the right to institute criminal cases, to accept criminal cases for his processing and to personally carry out preliminary investigation enjoying in this case the powers of an investigator.

3. The instructions of the head of an investigation unit with regard to a criminal case may not restrict the independence of investigators, their rights as established by Article 64 of this Code. Instructions shall be issued in a written form and they shall be obligatory for the implementation, but they may be challenged to the procurator. Challenging by an investigator of acts of the head of the investigative unit to the procurator shall not suspend their implementation, except for instructions concerning qualification of crimes and volume of accusation, directing the case to the procurator for subjecting the person indicted to the court or for termination of the criminal case.

Article 64. The Investigator

1. An investigator is an official person authorised to carry out preliminary investigation with regard to criminal cases within the bounds of his authorities: an investigator of the bodies of internal affairs, an investigator of the bodies of the national security and an investigator of the bodies of the tax police.

2. An investigator shall have the right to institute criminal cases and to perform preliminary investigation in respect of it, and to perform all investigative acts as provided for by this Code.

3. An investigator shall be obliged to take every measure for comprehensive, full and objective research of circumstances of cases, to carry out criminal prosecution of persons, in respect of whom sufficient evidence is gathered that indicates that he committed the crime, by way of holding him as an defendant, by way of presenting accusation, and by electing for him, in accordance with this Code, a measure for suppression, as well as compiling the accusation.

4. With regard to cases, on which preliminary investigation is obligatory, investigators shall have the right at any moment to accept a case for processing and to begin its investigation, without expecting the performance by the bodies of interrogation of immediate investigative acts as provided for by Article 200 of this Code.

5. Any decisions concerning directing investigation and performance of investigative acts shall be adopted by investigators independently, except for the cases when the law provides for obtaining sanctions from the procurator or decisions from the court, and he shall bear the entire responsibility for their legitimate and timely implementation. Unlawful interference with the activities of investigators shall entail criminal liability.

6. In the case of a disagreement of an investigator with the instructions of the procurator with regard to cases under investigation he shall have the right to challenge those with the upper procurator.

7. With regard to cases investigated by him, the investigator shall have the right to peruse operative and investigative materials of the bodies of interrogation pertaining to the case under investigation, to issue for them written instructions and messages, which are obligatory for the implementation concerning performance of investigative and research acts and to require from them assistance in the performance of investigative acts.

Article 65. The Body of Interrogation

1. The following shall be entrusted to the bodies of interrogation depending of the nature of a crime:

1) adoption, in accordance with the jurisdiction established by the law, of appropriate criminal procedural and operative investigative measures for the purposes of discovery of features of crimes and persons, who committed them, prevention and elimination of crimes;

2) performance of criminal procedural and operative investigative acts in accordance with the procedure provided for by Article 200 of this Code with regard to cases, on which the processing of preliminary investigation is obligatory;

3) interrogation in cases, on which the performance of preliminary investigation is not obligatory, in accordance with the procedure provided for by Chapter 37 of this Code;

4) the performance of preliminary investigation in the cases provided for by the third part of Article 288 of this Code.

2. The following shall be the bodies of interrogation:

1) the bodies of internal affairs;

2) the bodies of national security;

3) the bodies of justice – with regard to cases of crimes associated with cases of disrespect to the court and violation of the procedure for the implementation of court decisions;

4) the bodies of the tax police – with regard to cases of crimes associated with violation of tax, fiscal legislation, as well as legislation concerning licensing;

5) the customs bodies – with regard to cases of contraband and evasion of the payment of customs payments;

6) the bodies of military police – in cases of all crimes committed by military servicemen, who undergo military service under conscription or contracts at the Armed Forces of the Republic of Kazakhstan, other troops and military formations of the Republic of Kazakhstan; citizens, who are reservists, during the time when they undergo military training; persons of civil personnel of military units, formations, institutions in connection with the performance by them of service duties or on the territory of those unit, formations and institutions;

7) commanders of frontier units – with regard to cases of violation of the legislation concerning the State frontier of the Republic of Kazakhstan, as well as on cases of crimes committed on the continental shelf of the Republic of Kazakhstan;

8) commanders of military units, formations, heads of military institutions and garrisons in cases that there is no body of military police – with regard to cases of all crimes committed by military servicemen subordinated to them, who undergo military service under conscription or contracts at the Armed Forces of the Republic of Kazakhstan, other troops and military formations of the Republic of Kazakhstan, as well as citizens, who are reservists during their undergoing military training; with regard to cases of crimes committed by persons of civil personnel of military units, formations, institutions in connection with their performance of their service duties or on the territory of those units, formations, institutions;

9) heads of diplomatic representations, consular institutions plenipotentiary representations of the Republic of Kazakhstan – with regard to cases of crimes committed by their employees in the country of their stay;

10) the bodies of State fire prevention service – with regard to cases of any crimes associated with fires.

3. The rights and obligations of the body of enquire with regard to pre-trial proceedings and performance of immediate investigative acts in cases of all crimes shall be also entrusted to captains of marine ships, which are in long distance voyages, heads of geological parties and other State organisations and their subdivisions, which are remote from the bodies of

interrogation as listed in the second part of this Article, - during the period that there is no transport communication.

Article 66. The Head of a Body of Interrogation

1. The powers of the head of an interrogative body in the course of a pre-trial procedure with regard to cases of crimes provided for by Article 285 of this Code, within the bounds of his authority shall rest with the head of the Main Department (Unit), department, unit, subdivision and other subdivisions of the interrogative body.

2. The head of an interrogative body shall organise the adoption of appropriate criminal procedural and operative investigative measures for the purposes of establishing the indications of crimes and persons, who committed them, prevention and elimination of crimes.

3. With regard to cases concerning crimes subordinated to the bodies of preliminary investigation, the head of an interrogative body shall:

1) provided for the performance of immediate investigative acts;

2) organise the implementation of instructions of the procurator, investigator, in particular with regard to performance of certain investigative and other acts concerning application of measures of protection of victims, witnesses and other persons, who participate in criminal court proceedings;

3) organise the implementation of instructions of the court;

4. With regard to cases concerning crimes, the pre-trial procedure concerning which is performed by the bodies of interrogation, the head of the body of interrogation shall supervise the timeliness and legality of acts of inquest officers and he shall have the right to:

1) screen the cases, which are handled by them;

2) issue instructions concerning performance of certain investigative and other procedural acts, concerning holding as defendant, concerning qualification of crimes and volume of accusation, concerning the transfer of cases (materials) from one inquest officer to another;

3) entrust interrogation to several inquest officers;

4) institute a criminal case and to personally perform interrogation by accepting in this case a given case for his processing or by performing certain procedural acts.

The head of interrogative body shall approve resolutions on institution or refusal to institute a criminal case, on performance of search and imposition of seizure of assets, concerning discharge of a person accused from his post, concerning election, alteration, or abolishing in respect of the person indicted (suspected) of measures of suppression in the form of imprisonment, concerning termination, suspension, resumption of proceedings on the case, on sending the person indicted (suspected), who is not imprisoned, to a medical institution for the performance of stationary judicial medical or judicial and psychiatric expert evaluation, concerning extension of periods of imprisonment of the person accused (suspected), concerning sending to prison, announcing search of a person indicted; approve protocols concerning arraignment of persons suspected of commission of crimes, protocols of pleading guilty; provide for the taking of steps associated with the elimination of circumstances that assisted the commission of crimes; direct to the procurator criminal cases with the protocols of accusation.

5. The instructions of a head of an interrogative body with regard to a criminal case may not restrict the independence of the inquest officer, his rights as established by Article 67 of this Code. Instruction shall be issued in writing and they shall be obligatory for their implementation, but they may be challenged with the procurator. The challenging by an inquest officer of acts of the head of the body of interrogation with the procurator shall not suspend their implementation.

Article 67. The Inquest officer

1. An inquest officer is an official person authorised to perform pre-trial procedures associated with criminal cases within the bounds of his authority.

2. An inquest officer shall have the right to take decisions on the commencement and performance of pre-trial proceedings in the forms as defined by this Code, independently take decisions and perform investigative and other procedural acts, except for the cases when the law provides for their approval by the head of the interrogative body, when sanctions of the procurator are envisaged or a court decision.

3. In the case of pre-trial procedures on criminal cases, on which the performance of preliminary investigation is not obligatory, the inquest officer shall be guided by the rules

provided for by this Code for preliminary investigation, with the exceptions as provided for by Chapter 39 of this Code.

4. In the case of criminal cases, in respect of which the performance of the preliminary investigation is obligatory, the inquest officer shall be authorised pursuant to instructions of the head of the interrogative body to institute a criminal case in the cases, which do not allow for postponement, and also to perform immediate investigative acts and operative investigative measures, of which not later than twenty-four hours he shall be obliged to inform the procurator and the body of the preliminary investigation.

5. An inquest officer shall be obliged to comply with the instructions of the court, procurator, body of preliminary investigation and the body of interrogation with regard to the performance of certain investigative acts, with regard to application of measures of ensuring the security of the persons, who participate in the criminal procedure.

6. The instructions of the head of the body of interrogation shall be obligatory for an inquest officer. The instructions of the head of an interrogative body with regard to criminal cases may be challenged with the procurator. The challenging of instructions shall not suspend their implementation, except for instructions concerning qualification of a crime and volume of accusation, concerning directing a case to the procurator for subjecting the person indicted to the court or concerning termination of the criminal case.

Chapter 9. Participants of the Procedure, Who Protect Their Rights and Interests or the Represented Rights and Interests

Article 68. The Suspect

1. A suspect shall be recognised as the person, in respect of whom on the bases and in accordance with the procedure, as established by this Code a criminal case is instituted in connection with suspicion that he committed a crime, which is announced to him by the investigator, inquest officer, or he is detained or a measure of suppression is applied prior to the presentation of accusation.

2. In the case of the arraignment of a suspect or application to him of a suppression measure prior to the presentation of the accusation he must be questioned not later than twenty-four hours from the moment of arraignment or application of a measure of suppression while ensuring the right to meet in person and confidentially prior to the first questioning with his defence as elected or appointed. A detained suspect shall have the right to immediately after the termination of the first questioning to communicate by telephone or in any other manner to the place of his residence or work on his detention and place where he is kept.

3. The body of criminal prosecution shall not have the right to hold the following in the status of suspects:

1) a person detained – in excess of seventy two hours;

2) a person, to whom a measure of suppression is applied, - in excess of ten days from the moment of the announcement to the suspect of the resolution of the selection of the measure of suppression.

4. By the moment of expiry of the deadlines as established by the third part of this Article, the body of criminal prosecution shall be obliged to release a suspect from imprisonment, to abolish the measure of suppression, which was elected with regard to him, or to pass a resolution on holding him as an defendant.

5. Having found a suspicion, which is not sufficiently substantiated, the body of criminal prosecution shall be obliged to release a suspect from imprisonment and to abolish the measure of suppression, which was selected with regard to him, prior to the expiry of the deadlines as established by the third part of this Article.

6. A person shall cease to be in the condition of the suspect from the moment of his release from imprisonment, or abolishing of the measure of suppression selected with regard to him, or termination in respect of him or criminal prosecution, or from the moment that the body of the criminal prosecution passes a resolution on holding him an defendant.

7. A person suspected shall have the following rights: to know of which he is suspected, and to receive a copy resolution on institution against him of the criminal case or a copy protocol of the arraignment, or a resolution on the application of a measure of suppression; to provide explanations and testimony with regard to suspicions that exist against him, to refuse from giving explanations and testimony; to present evidence; to file petitions and recusals; to provide

testimony and explanations in the native language or a language of which he has command; to use free assistance of a translator; to peruse protocols of investigative acts performed with his participation, and to provide comments concerning protocols; to participate with a permit from the investigator or the inquest officer in investigative acts performed pursuant to his petition or petition of his defence or legitimate representatives; to file complaints concerning acts and decisions of the court, procurator, investigator, or inquest officer; pursuant to his request to be questioned with the participation of the defence.

8. A suspect's having defence or legitimate representative may not serve as an excuse for elimination or restriction of any right of the suspect.

Article 69. The Defendant

1. An defendant is recognised as a person, in respect of whom a resolution is passed to hold him as an defendant, or a person in respect of whom at the court a criminal case is instituted through private prosecution, as well as a person, in respect of whom a protocol of accusation is compiled and approved by the head of the body of interrogation. An defendant, in respect of whose case a principal court discovery is appointed, shall be called defendant; an defendant in respect of whom plead guilty sentence is passed – shall be recognised as convict; and a person, in respect of whom a non-guilty sentence is passed shall be recognised as a person exculpated.

2. An defendant shall have the following rights: to protect his rights and legitimate interests by methods and facilities, which do not contradict the law and to have enough time and possibility for the preparation for the defence; to know of what he is accused, and to receive a copy resolution on his holding as a defendant; to receive from the body of criminal prosecution an immediate explanation of his rights; to be notified by the body that leads the criminal procedure, on the adoption of procedural decisions that concern his rights and interests, to receive a copy resolution on the application of a measure of suppression; to provide explanation and testimony on the accusation presented to him; to abstain from giving testimonies; to present evidence; to file petitions and recusals; to issue testimony and explanations in the native language or in a language of which he has a command; to use charge free assistance of a translator; to have defence; and in the cases and in accordance with the procedure provided for by this Code, to have meetings with the defence alone and confidentially from the moment preceding his first questioning; to participate with a permit from the investigator or inquest officer in investigative acts performed pursuant to his petition or a petition of his defence or legitimate representatives; to peruse protocols of those acts and to issue comments concerning them; to set questions before experts, to peruse resolutions on the appointment of expert evaluations and with reports of the expert; to peruse upon termination of investigation any materials on the case and to copy out of it any information in any volume; to file complaints concerning acts and decisions of the court, procurator, investigator or inquest officers; to object against termination of cases on the basis of non-rehabilitating reasons; to require public court discovery. A defendant shall have the right to participate in court discovery on the case at the first instance and appellate instance courts and to enjoy all the rights of the party, and also enjoy the right of the last word. A defendant or an exculpated shall have the right to peruse protocols of a court session and to issue comments concerning it; to challenge the sentence, decree of the court, resolution of the judge and to receive copies of challenged decisions; to know of the complaints passed with regard to the case and objections and to issue objections to them; to participate in the court discovery of filed complaints and objections.

3. The participation in the case of defence or the legitimate representative of the defendant may not serve and the basis for the elimination or restriction of any rights of the defendant.

Article 70. The Defence

1. Defence is a person, who performs, in accordance with the procedure established by the law, the defence of the rights and interests of suspects and defendants and who renders to them legal assistance.

2. Advocates, spouses (spouse), close relatives or legitimate representatives of defendants, representatives of trade unions and other public associations in cases of members of those associations shall be allowed to be defendants. Foreign advocates shall be allowed to participate in cases as defendants where it is provided for by international treaties of the

Republic of Kazakhstan with relevant States on mutual basis, in accordance with the procedure as defined by legislation.

3. Defence shall be allowed to participate in a given case from the moment when accusation is presented or from the moment when a person is recognised as suspect in accordance with the first part of Article 68 of this Code.

4. One and the same person may not be defence of two suspects, defendants when the interests of one of them contradict the interests of the other.

5. An advocate shall not have the right to refuse from the protection of a suspect or a defendant that he assumed.

Article 71. Obligatory Participation of Defence

1. Participation of defence in proceedings on criminal cases shall be obligatory in the following cases:

1) when the suspect or defendant petitions for that;

2) the suspect or defendant has not reached the age of majority;

3) the suspect or defendant by virtue of his physical or psychic shortcomings may not independently exercise his right to defence;

4) the suspect or defendant has no command of the language in which court proceedings are carried out;

5) a person is accused of commission of a crime, for which deprivation of freedom may be appointed as a measure of punishment for a period in excess of ten years, life-long deprivation of freedom or capital punishment;

6) detention is applied to the person accused as a measure of prevention or he forcibly is sent for stationary judicial and psychiatric expert evaluation;

7) between the interests of the suspects or accused, one of whom has defence, contradictions exist;

8) a representative of the victim (private prosecutor) or civil plaintiff participates in proceedings on a criminal case;

9) State prosecutor participates in the consideration of the case in the court.

2. In the cases provided for by paragraphs1 – 6 of the first part of this Article, the participation of defence shall be provided for from the moment of the recognition of a person as a suspect or accused, by paragraph 7 – from the moment of identifying contradictions between the interests of suspects or accused, by paragraphs 8, 9 – from the moment when the defendant is subjected to the court.

3. When in the case of circumstances provided for by the first part of this Article the defence is not invited by the suspect or accused themselves, their legitimate representatives nor any other persons pursuant to their instructions, the body that leads the criminal procedure shall be obliged to provide for the participation of defence at the appropriate stage of the procedure, of which he shall pass a resolution, which is obligatory for the professional organisation of advocates.

Article 72. Invitation, Appointment, Substitution of Defence, Remuneration of His Work

1. Defence shall be invited by the person suspected or accused, their legitimate representatives as well as any other persons pursuant to the instructions or with the consent of the suspect or accused. A suspect or accused shall have the right to invite for defence several defenders.

2. Pursuant to request of a suspect or defendant the participation of defence shall be ensured by the body that leads the criminal procedure.

3. In those cases where the participation of an elected or appointed defence is impossible during a long (not less than five days) period of time, the body that leads the criminal procedure shall have the right to propose to the person suspected or accused to invite another defence or take steps to appoint defence through a professional organisation of advocates or its structural subdivision. The body that leads the criminal procedure shall not have the right to recommend specific individuals to be defence.

4. In the case of detention or imprisonment, when the presence of defence selected by a suspect or defendant is impossible for twenty-four hours, the body that performs the criminal prosecution shall propose to the suspect or accused to invite another defence and in the case of

a refusal, they shall take steps to appoint defence through a professional organisation of advocates or its structural subdivisions.

5. Work remuneration of advocates shall be carried out in accordance with current legislation. The body that leads the criminal procedure when there are reasons therefor shall have the right to indemnify a suspect or accused fully or partially from payments for legal assistance. In this case, work remuneration shall be carried out at the expense of the State.

6. Expenditures associated with work remuneration of advocates may be at the expense of the State also in the event provided for by the third part of Article 71 of this Code, when an advocate participated in the performance of interrogation, preliminary investigation or in the court by appointment, without entering into an agreement with a client.

7. In the event that several defence lawyers participate in proceeding on a criminal case, any procedural act where the participation of defence is required may not be recognised as illegal because not all defence lawyers of the relevant suspect or accused participate in it.

8. A defence lawyer shall present to the body that leads the criminal procedure to confirm his status the documents that certify the identity, and in appropriate cases: documents confirming their being part of advocacy and an order from legal consultation office for the right of participation of a given advocate in a given case or a document, which is equated thereto; a decision from a public association or its managing body on the appointment of the defence lawyer; the document that confirms kinship relations with the suspect or accused.

Article 73. Recusal of Defence

1. A suspect or accused individual shall have the right at any moment of proceedings in a case to recuse defence, which signifies his intent to perform his own defence. A recusal of defence shall be allowed only pursuant to the initiative of a suspect or accused in the presence of defence or advocate that may be appointed as defence. A recusal of defence due to motives of lack of funds for payment for legal assistance shall not be accepted. A recusal shall be formulated in writing and it shall be noted in the protocol of the relevant investigative or judicial act.

2. A recusal of defence shall not be obligatory for the body that leads the criminal procedure in the cases provided for by Article 71 of this Code.

3. Recusal of defence shall not deprive the accused or the suspect of the right to further petition for the access of defence to participate in the case. The entering of defence into case shall not entail the repetition of the acts, which were by that time performed in the course of investigation or judicial discovery.

Article 74. The Powers of Defence

1. Defence shall be obliged to use all legitimate facilities and methods of defence for the purposes of establishing the circumstances that refuse accusation or mitigate the liability of the suspect or accused and to render to them appropriate legal assistance.

2. From the moment of access to participate in the case the defence shall have the following rights: to have meetings with the accused or suspect alone and confidentially without restrictions of their number and length; to collect and present items, documents and information, which are required for rendering legal assistance; to be present when accusation is presented, to participate in the questioning of the suspect or accused and also in other investigative acts, which are performed with their participation or pursuant to their petition, and also in the investigative acts, which are carried out pursuant to a petition of the defence himself; to file recusals; to peruse protocol of detention, resolutions on application of measures of suppression, with the protocol of investigative acts as performed with the participation of the suspect or accused or the defence himself, with the documents, which were presented or should have been presented to the suspect and accused, and upon expiry of interrogation or preliminary investigation – with all materials on the case, to copy from it any information in any volume; to file petitions; to participate in preliminary hearings of the case, in judicial discovery at the court of any instance, to speak in court debates, participate in sessions of the court when a case is resumed due to newly established circumstances; to peruse the protocol of court proceedings and to make comments in that respect; to receive copies of procedural documents; to object illegal acts of the party and the person, who chair the criminal procedure, to require the entering of those objections into procedural documents; to present complaints with regard to acts and decisions of the inquest officer, investigator, procurator and court and participate in their

consideration; to exercise any other means and methods of defence, which do not contradict the law.

3. Defence that participates in the performance of investigative acts shall have the right with a permit from the investigator, inquest officer to set questions to persons questioned. The investigator, inquest officer may recuse questions of defence, but he shall be obliged to enter all the questions so set into the protocol. In the protocol of investigative acts the defence shall have the right to make written notes with regard to the correctness and fullness of the protocol.

4. Defence shall not have the following rights: to commit any acts against the interests of the person defended nor to impede the exercise of the rights that he has; contrary to the position of the person defended to recognise his complicity in a crime and guilt of its commission, to declare reconciliation of defendant with the victim; to recognise civil lawsuits; to revoke complaints and petitions filed by the defendant; to disclose information, which became known to him in connection with the application for his legal assistance and its exercise.

5. Defence shall also have other rights and he shall bear other duties as provided for by this Code.

Article 75. The Victim

1. A person, in respect of whom the reasons exist to believe that directly by a crime moral, physical or property harm is caused to him shall be recognised as a victim in a criminal procedure.

2. A person may not be recognised as a victim also in the cases when harm is caused to him by acts prohibited by the Criminal Code of the Republic of Kazakhstan as committed by an insane person.

3. A person shall be recognised as a victim through a criminal procedure from the moment that the body leading the criminal procedure passes an appropriate resolution. When after the recognition of a person as a victim it is established that there are no reasons for his having that status, the body that leads the criminal procedure by its resolution shall terminate the participation of the person in the case as a victim.

4. It shall be ensured that victims receive compensation of property harm caused by a crime, as well as costs incurred in connection with his participation in preliminary investigation and in court, including costs associated with representation in accordance with the rules as established by this Code.

5. A lawsuit of a victim to be compensated for moral harm caused to him, shall be considered in accordance with the procedure of civil court proceedings.

6. The victim shall have the following rights: to know of the accusation to be presented; to provide testimony; to submit evidence; to file petitions and recusals; to provide testimony in the native language or a language of which he has command; to use charge free assistance of a translator; to have a representative; to peruse protocol of investigative acts performed with his participation, and to issue comments concerning them; to participate with a permit from the investigator or inquest officer in investigative acts performed pursuant to his petition or petition of his representative; to peruse upon expiry of investigation all materials on the case, to copy from it any information and in any volume; to receive copies of resolutions on institution of the criminal case, on recognition of himself as a victim or on refusal of that, on termination of the case, a copy accusation statement, as well as copies of the sentence, decisions of the court of an appellate instance; to participate in judicial discovery concerning the case in the first instance court; to participate in court debates; to sustain accusation, in particular in cases when a State prosecutor refuses from accusation; to peruse protocol of court sessions and to provide comments thereon; to file complaints against acts of the body leading the criminal procedure; to challenge the sentence and court resolutions; to be aware of complaints and objections filed in the case and to provide objections thereto; to participate in court consideration of complaints filed, as well as petitions and objections in the appellate instance.

7. A victim, and in the case of his death – his legal successors, shall have the right to receive pecuniary compensation at the expense of funds of the Republic's budget in the event that the sentence is executed with regard to the convict for the commission of a specially grave crime to be punished by capital punishment, and when the person so punished has no sufficient property to compensate for harm, caused by that crime. The issue of payment within said cases of compensation at the expense of the State for harm caused by the crime, shall be settled by the court that passed the sentence of capital punishment pursuant to the application of the

victim. The victim shall have the right in said cases to compensation of harm in full volume, if the harm does not exceed one thousand minimum assessment indices.

8. The victim shall be obliged as follows: to arrive when summoned by the body leading the criminal procedure, to truthfully communicate all circumstances he knows on the case and to answer questions set; not to disclose information on circumstances known to him with regard to the case; to comply with the established procedure when investigative acts are performed and during the court session.

9. In the event that a victim fails to arrive on summons without a good reason he may be brought under compulsion in accordance with the procedure as provided for by Article 158 of this Code, and held responsible through the administrative procedure in accordance with legislation.

10. For a refusal to provide testimony and for providing deliberately false testimony a victim shall be held responsible in accordance with the criminal procedure in accordance with the law.

11. In cases of crimes, of which the consequence is death of a person, the rights of the victim provided for by this Article shall be exercised by close relatives of the deceased. When several persons claim to have the rights of a victim, to whom a crime caused moral harm in connection with the death of their relatives, all of them may be recognised as victims or one of them pursuant to an agreement between them.

12. A legal entity, to which moral or property harm is caused by a crime, may be recognised as a victim. In this case, the rights and obligations of the victim shall be exercised by a representative of the legal entity.

Article 76. The Private Prosecutor

1. A person, who filed a complaint with the court with regard to a case of private prosecution and who sustains accusation in the court, and also a victim in cases of public and public-private prosecution, who independently maintained the accusation in the court in the case of a refusal of the State prosecutor from accusation, shall be recognised as a private prosecutor.

2. In the case of age of minority or incapability of a victim, his legitimate representative, who filed the petition, request or who filed a complaint, shall be recognised as a private prosecutor.

3. Private prosecutors shall exercise all the rights and they shall bear all the obligations of victims and they shall also be imparted with the rights provided for by the third, the fourth, and the sixth parts of Article 393 of this Code.

4. A private prosecutor shall exercise the rights he has and he shall implement the duties entrusted to him in person and where it is consistent with the nature of the rights and obligations through a representative.

Article 77. The Civil Plaintiff

1. The physical person or legal entity, in respect of whom there are sufficient reasons to believe that a crime caused to him directly property harm, who filed a claim to be compensated for that harm, shall be recognised as a civil plaintiff. A civil plaintiff may file a lawsuit for property compensation of moral harm. The procurator, in the cases provided for by the law, shall have the right to recognise a physical person or a legal entity as a civil plaintiff pursuant to the procurator's own initiative.

2. A decision to recognise a civil plaintiff or a decision to terminate the participation of a person in procedures as a civil plaintiff in cases when there are no reasons for remaining in said procedural status, shall be recognised by the body leading the criminal procedure, of which appropriate resolution shall be passed.

3. In order to protect the interests of minors, as well as of persons, who are recognised as incapable, in accordance with the procedure established by the law, civil lawsuits may be filed by their legitimate representatives.

4. A civil plaintiff for the purposes of maintaining a lawsuit filed by him shall have the right: to know the essence of the accusation; present evidence; provide explanations on filed lawsuits; to present materials to be attached to the criminal case; to file petitions and recusals; to provide testimony and explanations in the native language or in a language of which he has command; to use charge free assistance of a translator; to have a representative; to peruse protocol of investigative acts performed with his participation; to participate with a permit from

the investigator or inquest officer in investigative acts, which are carried out pursuant to his petition or petition of his representative; to peruse upon termination of the investigation the materials on the case pertaining to the civil lawsuit and to copy out of it any information and in any volume; to be aware of the decisions infringing his interests and to obtain copies of procedural decisions pertaining to the civil lawsuit he filed; to participate in court discovery of the case in any instance courts; to participate in court debates; to peruse protocol of court proceedings and provide comments thereon; to file complaints concerning acts and decisions of the body leading the criminal procedure; to challenge the sentence and resolution of the court with regard to what concerns the civil lawsuits; to be aware of complaints and objections filed with regard to the case so far as the civil lawsuit is concerned and to file objections thereto; to participate in court consideration of filed complaints and objections; in the cases provided for by the seventh part of Article 75 of this Code, to receive compensation of harm caused by a crime at the expense of the State.

5. A civil plaintiff shall have the duties as provided for by the eighth part of Article 75 of this Code.

6. A civil plaintiff shall also have other rights and he shall bear other duties as provided for by the law.

Article 78. The Civil Defendant

1. A physical person or a legal entity, who by virtue of law in connection with a lawsuit filed in the course of procedure associated with a criminal case, has property liability for harm caused by a crime or act of an insane person, which is prohibited by the Criminal Code of the Republic of Kazakhstan, shall be recognised as a civil defendant.

2. A decision to recognise as a civil defendant or to terminate participation of a person in procedures as a civil defendant in the event that there are no reasons for his being in said procedural status, shall be adopted by the body leading the criminal procedure, of which an appropriate resolution shall be passed.

3. A civil defendant for the purposes of protecting his interests in connection with the lawsuit filed against him shall have the following rights: to be aware of the essence of the accusation and a civil lawsuit; to object against the lawsuit; to provide explanations and testimony with regard to the essence of the lawsuit filed; to have a representative; to present materials for the attachment to the criminal case; to file petitions and recusals; to peruse upon expiry of investigation the materials on the case pertaining to the civil lawsuit and to copy any information in any volume; to be aware of decisions adopted, which concern his interests, and to procure copies of procedural decisions pertaining to the filed civil lawsuit; to participate in court trial of the case in the court of any instance; to participate in court debates, to file complaints concerning acts and decisions of the body leading the criminal procedures; to peruse the protocol of court sessions and to provide comments thereon; to challenge the sentence and the resolution of the court with regard to what concerns the civil lawsuit; to be aware of objections and complaints filed in connection with the case in as much as the civil lawsuit is concerned and to provide objections thereon; to participate in court consideration of filed complaints and objections.

4. A civil defendant shall bear the duties as provided for by the eighth part of Article 75 of this Code.

5. A civil defendant shall also have other rights and he shall bear other duties as provided for by the law.

Article 79. Legitimate Representatives of Suspected Minors and Indicted Persons

In the cases of violations committed by minors their legitimate representatives shall be involved in accordance with the procedures provided for by this Code, to participate in the case.

Article 80. Representatives of Victims, Civil Plaintiffs and Private Prosecutors

1. Advocates and other persons who have the right by virtue of law to represent in the course of procedures associated with the criminal cases legitimate interests of victims, civil plaintiffs and private prosecutors and who are allowed to participate in the case by a resolution of the body that leads the criminal procedure may be representatives of the victim, civil plaintiff and private prosecutor.

2. In order to protect the rights and legitimate interests of victims who are minors or those who due to their physical or psychic condition are deprived of the possibility to independently protect their rights and legitimate interests, their legitimate representatives shall be engaged for obligatory participation in the case.

3. Legitimate representatives and representatives of victims, civil plaintiff and private prosecutor shall have the same procedural rights as the physical persons and legal entities represented by them within the limits as provided for by this Code.

4. A representative of a victim, civil plaintiff and private prosecutor shall not have the right to commit any acts against the interests of a participant of the process whom they represent.

5. Personal participation in the case of a victim, civil plaintiff or private prosecutor shall not deprive them of the right to have a representative in that case.

Article 81. Representatives of a Civil Defendant

1. Advocates and other persons who have the right by virtue of law to represent in criminal case procedures the legitimate interests of the civil defendant and who are allowed to participate in the case by a resolution of the body leading the criminal procedure shall be recognised as representatives of a given civil defendant.

2. Representatives of a civil defendant shall have the same procedural rights as the physical persons and the legal entities represented by them.

3. A representative of a civil defendant shall not have the right to perform any acts against the interests of the represented participant of the process.

4. Personal participation in a case of a civil defendant shall not deprive him of the right to have a representative in that case.

Chapter 10. Other Persons who Participate in Criminal Procedures

Article 82. Witness

1. Any person who may know certain circumstances, material for a case may be summoned and questioned as witness to provide testimony.

2. The following shall not be subject to questioning as witnesses:

1) judge - with regard to circumstances of a criminal case which became known to him in connection with the participation in proceedings on a criminal case as well as in the course of discussions on issues which emerge in the course of passing a court decision in the meeting room;

2) defence of a victim, accused and equally representatives of a victim, civil plaintiff and civil defendant - with regard to circumstances which became known to him in connection with the performance of his duties in the criminal case;

3) a clergyman - with regard to circumstances which became known to him through confessions;

4) person who by virtue of his young age or psychic or physical drawbacks is not capable to correctly perceive circumstances that are material for the case and to provide testimony on those circumstances.

3. A witness shall have the following rights: to refuse to provide testimony that may entail for himself, his spouse and close relatives prosecution for the commission of a criminally punishable act or administrative violation; provide testimony in his native language or a language in which he have command; to use charge free assistance of a translator; to file recusal against a translator who participates in his questioning; to make protocol with his own hands with his testimony in the protocol of questioning; to file petitions and to file complaints against the acts of an inquest officer, detective, procurator and court. A witness shall have the right to provide testimony in the presence of his advocate if the latter does not participate in the case in any other capacity. A failure of an advocate to arrive does not impede the conduction of questioning at the time appointed by the detective.

4. A witness shall be obliged as follows: to arrive when summoned by the inquest officer, detective, procurator and court; to truthfully communicate all he knows on the case and to answer questions asked; not to disclose information and circumstances known to him with regard to the case if he was warned against this by the inquest officer, investigator or procurator;

to comply with the procedure established for performance of investigative acts and during the court trial.

5. A witness may not be subjected to expert evaluation or inspected under compulsion, except for the cases indicated in Article 241 of this Code.

6. For a giving deliberately false testimonies or for a refusal to provide testimony a witness shall be held responsible in the criminal procedure as provided for by the Criminal Code of the Republic of Kazakhstan. The evasion from providing testimony or failure to arrive without a good reason when summoned by the body leading criminal procedures shall entail administrative liability.

Article 83. Expert

1. A person who is not interested in the case and who has special scientific knowledge may be summoned in the capacity of an expert. Other requirements applicable to a person who may be entrusted with the performance of expert evaluation shall be established by the legislation of the Republic of Kazakhstan.

2. Summoning of an expert, appointment and performance of expert evaluation shall be carried out in accordance with the procedure provided for by Chapter 32 of this Code.

3. An expert shall have the following rights: to peruse the materials of a criminal case pertaining to the subject matter of the expert evaluation; to file petitions to be given additional materials which are required for issuing of a report; with a permit of the body leading the criminal procedure to participate in the performance of investigative acts and other procedural acts and to ask questions of the participants, pertaining of the subject matter of his expert evaluation; to peruse the protocol of a given investigative or any other procedural acts in which he participated and also in as much as it is relevant - with the protocol of the trial session and to make comments which are subject to clarification in the protocol with regard to the fullness and the accuracy of fixation of his acts and testimony; to indicate in the report the circumstances which are material for the case as established in the course of performance of the expert evaluation pursuant to his initiative; to submit a report and to provide testimony in his native language or a language of which he has command; to use free of charge the assistance of a translator; to file complaints concerning acts of the body leading the criminal procedure that infringe his rights when performing expert evaluation; to repudiate from reporting on issues which are beyond the boundaries of his professional knowledge and also in the cases when the materials provided to him are not sufficient for issuing such a report; to receive reimbursement of costs incurred in the course of performance of expert evaluation and remuneration for work performed; when the performance of the expert evaluation is not included into the circle of his service duties.

4. Experts shall have no right: aside from the body that leads criminal procedure, to enter into negotiations with the participants of the process with regard to issues associated with performance of expert evaluation; to independently collect materials for investigation; to perform investigation which may entail full or partial destruction of objects or change of their external appearances or principal properties unless there was a special permit from the body that appointed the expert evaluation.

5. Expert shall be obliged as follows: to arrive when summoned by the body leading the criminal procedure; to issue substantiated and objective written reports on the questions set to him; to issue testimony on questions connected with the research he performed and to report; not to disclose the information concerning the circumstances of a given case nor any other information which became known to him in connection with the performance of the expert evaluation; to comply with the procedure when performing investigative acts and during court trial.

6. For issuing of deliberately false report experts shall be held responsible in the criminal procedure.

7. Experts who are employees of the bodies of the judicial expert evaluation shall be deemed due to the nature of their activities, familiar with their rights and obligations and warned of the criminal liability for issuing deliberately false reports.

Article 84. Specialist

1. A person who is not interested in the case, who has special knowledge which are required for rendering assistance and in the collection, research and evaluation of evidence as

well as the application of technical facilities may be engaged as specialist for the participation in the investigative and judicial acts. A teacher who participates in an investigative or any other procedural acts involved in the participation of a minor as well as a doctor who participates in an investigative and other procedural acts, except for the cases when he is appointed as expert, shall be also recognised as specialists.

2. A specialist shall have the following rights: to know the objecting of his being summoned; to refuse from the participation in a proceeding on a case unless he has appropriate special knowledge and skills; with a permit from the body leading the criminal procedure to ask questions of the participants of the investigative or judicial acts; to draw attention of the participants of the investigative or judicial acts with regard to circumstances connected with his acts when discovering, fixing or withdrawing items or documents, when applying scientific or technological facilities, researching materials of the case, preparing materials for the appointment of expert evaluation; within the framework of investigative or judicial acts, to carry out research of materials of the case with protocoling of its course and of its results in the protocol or in an official documents to be attached to the criminal case in accordance with the procedure as provided for by the eighths part of Article 203 of this Code; to peruse the protocol of a given investigate act in which he participated and also with regard to the relevant part - with the protocol of the court session and to make statements and comments which are subject to be entered into the protocol with regard to the fullness and accuracy of fixation of the course and results of the acts which were performed with his participation; to file complains concerning the acts of the body leading the criminal procedure; to receive reimbursement of costs incurred by him in connection with the participation in the performance of investigative or judicial acts and remuneration for the work performed if the participation in the proceedings associated with a given case is not a part of his service duties.

3. A specialist shall be obliged as follows: to arrive when summoned by the body leading the criminal procedure; to participate in the performance of investigative acts and in the court trial, using special knowledge, skills and scientific and technical facilities for discovery, fixing and withdrawing evidence, to provide explanations with regard to the acts he performed; not to disclose information of circumstances of the case and other information which became known to him in connection with the participation in a given case; to comply with the procedure when performing investigative acts and during court trial.

4. For a refusal or evasion of performance of his duties without good reasons specialist shall be held responsible in the administrative procedure.

Article 85. Translator

1. A person who is not interested in a case, who has command of the language the knowledge of which is required for translation and held for the participation in an investigative and judicial act in cases when suspect, indicted, defendant, their defence or a victim, civil plaintiff, civil defendant or their representatives, as well as witnesses and other representatives of the process have no command of the language in which the proceedings with regard to the case are carried out, as well as for the translation of written documents, shall be summoned to be the translator.

2. The body that leads the criminal procedure shall pass a resolution on the appointment of a person as translator.

3. A translator shall have the following rights: to set questions to the present persons when he performs translation in order to improve the translation; to peruse the protocol of investigative or any other procedural acts in the performance of which he participated and also in much as it is appropriate with the relevant part of the protocol of the court session and to make comments which are to be included into the protocol with regard to the fullness and accuracy of the translation; to refuse from the participation of the proceedings on a case if he does not possesses knowledge required for the translation; to file complains on the acts of the body leading the criminal procedure; to receive reimbursement of costs incurred by him in connection with the participation in the performance of the investigative or any other procedural acts as well as remuneration for work performed when the participation in proceedings on a case is not part of his service duties.

4. Translator shall be obliged as follows: to arrive when summoned by the body leading the criminal procedure; to perform precisely and fully the translation entrusted to him; to certify the accuracy of translation with his signature in the protocol of the investigative act that was

performed with his participation as well as in the procedural documents which are handed to the participants of a given procedure translated into their native language or a language of which they have command; not to disclose information concerning circumstances of the case nor any other information which became known to him in connection with his being engaged as translator; to comply with the procedure when performing investigative acts and during the court session.

5. For a refusal or evasion to arrive or from performance of his duties without a good reason translator shall be held responsible in the administrative procedure. In the case of the deliberately wrong translation translator shall be held responsible in the criminal procedures.

6. The rules of this Article shall not apply to a person who understands symbols of dumb or death and who is invited for the participation in proceedings on the case.

Article 86. Hired Witness

1. A person engaged by the body of criminal prosecution for certifying facts of performance of investigative acts, its course and results in the cases provided for by this Code shall be recognised as hired witness.

2. Only persons who are not interested in the case and who are not dependant on the bodies of criminal prosecution who are citizens of full age, who are capable of full and accurate understanding of the acts which take place in their presence may be hired witnesses.

3. Not less than two hired witnesses shall participate in investigative acts.

4. Hired witnesses shall have the following rights: to participate in performance of investigative acts; to make statements and comments with regard to investigative acts which shall be subject to inclusion into the protocol; to peruse the protocol of investigative acts in which they participated; to file complains concerning the acts of the body of criminal prosecution; to receive compensation of costs incurred by them during the procedure associated with the criminal case.

5. A hired witness shall be obliged as follows: to arrive when summoned by the body of criminal prosecution; participate in performance of investigative acts; to certify with his signature in the protocol of the investigative act the fact of performance of a given act, its course and results; not to disclose without a permit of the inquest officer, detective, procurator the materials of the preliminary investigation; to comply with the procedure when investigative acts are carried out.

6. For a refusal or evasion to arrive or from performance of their duties without good reason hired witness shall be held responsible in the administrative procedure.

Article 87. Secretary of a Court Session

1. A state employee who is not interested in a given criminal case who leads protocol of a court session shall be recognised as the secretary of a given court session.

2. A secretary of a court session shall be obliged as follows: to be in the court room where the session is taking place all the time when he is required to ensure taking of protocol, not to leave the session of the court without a permit of the chairman; to fully and accurately outline in the protocol the acts and decisions of the court, petitions, objections, testimonies, explanations of all persons who participate in the court sessions as well as other circumstances which are subject to be protocoled in the protocol of the court session; to prepare the protocol of the court session within the deadlines as established by the court; to obey legitimate ordinances of the chairman; not to disclose information concerning circumstances which became known in connection with his participation in the closed-type court sessions.

3. A secretary of a court session shall bear personal responsibility for the fullness and accuracy of the protocol of a given court session.

4. In the event that deliberately false information or information which is not consistent with the reality is entered into the protocol of a court session, the secretary shall be held responsible as provided for by the law.

Article 88. Bailiff

1. An official person who performs the assignment entrusted to him by the law with regard to ensuring the established procedure for the functioning of courts and for the implementation of court decisions shall be recognised as bailiff.

2. Bailiff shall ensure the supervision of the implementation of punishments which are not associated with the deprivation of freedom, he shall render assistance to court enforcement officers with regard to compulsory execution of executive documents, he shall maintain the order in the court room during court trials, implement the ordinances of the chairman and he shall perform in courts the protection of judges, witnesses and other participants of procedures, he shall protect them from outside influence, he shall assist to the performance by the court of procedural acts, bring about the persons who evade the court and exercise other powers entrusted to him by the law.

Chapter 11. The Circumstances which Exclude the Possibility of Participation in Criminal Case Procedures. Recusals

Article 89. Recusals and Petitions to Exclude from the Participation in Criminal Case Procedures. Exclusion from Participation in Criminal Case Procedure

1. When there are circumstances that exclude their participation in procedures associated with a criminal case, a judge, procurator, detective, inquest officer, defence, representatives of a victim (private prosecutor), civil plaintiff, civil defendant, hired witness, secretary of court session, bailiff, translator, expert, specialist must resign from the participation in procedures associated with a criminal case or recusal must be filed against them by the participants of the criminal procedure.

2. The body leading the criminal procedure shall have the right within the bounds of its authority to decide filed recusals and petitions to exclude from proceedings associated with criminal cases or when discovering circumstances that exclude the participation of a person in criminal procedures, exclude him from the criminal proceedings associated with a case on their own initiative by passing appropriate resolution. When simultaneously with the recusal of a person authorised to who is allowed to decide recusals with regard to other participants of the procedure, a recusal is filed against other participants of the procedure than first of all the question of the recusal of a given person shall be decided in the first line.

3. In the event that simultaneous participation in criminal proceedings of several persons excluded because of their kinship relations or any other relations of personal dependence, the persons who later that others acquire the status of participants of the procedure must be excluded from the procedures associated with the criminal case. When persons related by kinship or any other relations of personal dependence happen to be members of the court, the person of the discretion of the chairman shall be subject to the exclusion from the participation in the criminal case procedure.

4. A secretary of a court session, bailiff, translator, specialist, expert whose participation in criminal case procedures is not excluded by any circumstances as provided for by this Code may be at their request released from such participation by the body leading the criminal procedure in view of existence of sufficient reasons impeding them to perform their procedural functions.

Article 90. Recusal of a Judge

1. A judge may not participate in the trial of a case if he:

1) is not a judge under whose jurisdiction the criminal case is recognised to be in accordance with this Code;

2) handled a complaint associated with the decision of the procurator;

3) is a victim of a given case, a civil plaintiff, civil defendant, was summoned or may be summoned as witness;

4) participated in procedures associated with the given criminal case as an expert, specialist, translator, bailiff, hired witness, secretary of a court session, inquest officer, detective, procurator, defence, legitimate representative of the defendant, representative of a victim, civil plaintiff or civil defendant;

5) is a relative of a victim, civil plaintiff, civil defendant or their representatives, a relative of an indicted person or his legitimate representative, a relative of the procurator, defendant, detective or inquest officer;

6) when there are other circumstances that give rise to believe that a judge personally directly or indirectly is interested in a given case.

2. The membership of the court that handles a criminal case may not include persons who are related by kinship or any other relations of personal dependence.

3. The judge who took part in the trial of a criminal case of the court of the first instance may not participate in the trial of that case in the court of second instance or in the procedure of supervision and equally to participate in a new consideration of the case in the first instance or second instance courts in the case that the sentence or decree on termination of the case passed with his participation were abolished.

4. A judge that took part in the trial of a case in a second instance court may not participate in the trial of that case at a court of first instance or in the procedure of supervision and equally in a new trial of the case in a first or second instance court after the decree was abolished that was adopted with his participation.

5. A judge who took part in the trial of a case in the procedure of supervision may not participate in the trial of the same case in a first or second instance court.

6. A recusal must be files prior to the beginning of judicial discovery. The later filing of a recusal shall be allowed only in the event that the grounds therefore became known to the party that filed a recusal after the commencement of the judicial discovery.

7. The issue of the recusal of a judge as well as the court participants of a court trial who are subject to a recusal, shall be decided by the court in the conference room and a resolution shall be passed.

8. A recusal against the judge shall be decided by other judges in the absence of the person to be recused who however shall have the right prior to the resignation of judges to the conference room to publicly outline his explanation due to recusal filed against him. A recusal filed against several judges or against the entire court membership shall be decided by the court it it's entire membership by the majority of votes. In the case of ties vote, the judge shall be deemed to be recused.

9. A recusal filed against the judge who decide petitions on application of measures of suppression or performance of investigative acts shall be decided by the same judge individually by passing a resolution. A recusal filed against the judge who handles a case in accordance with the first part of Article 58 of this Code individually, shall be decided by the chairman of a given court or by any other judge of the same court and if they are absent - by the judge of the upper court. In the event that petition to recuse is satisfied, the criminal case, complaint or petition shall be transferred in accordance with the established procedure to be processed by another judge.

10. A resolution on recusal or satisfying recusal shall not be subject to challenge (objection). The motivation concerning disagreement with such resolution may be included into a cassation or supervision complaint.

Article 91. Recusal of a Procurator

1. A procurator may not participate in procedures associated with a criminal case when any of the circumstances provided by the Article 90 of this Code exist.

2. The participation of a procurator in the performance of a preliminary investigation or interrogation as well as his support of accusation in the court shall not be recognised as an impediment for his further participation in the case.

3. The issue of recusal of a procurator during pre-trial procedures shall be settled by the upper procurator and during the trial at the court - the court that handles the case.

Article 92. Recusal of a Detective or Inquest officer

1. A detective or inquest officer may not participate in the investigation of a case when there are circumstances provided for by Article 90 of this Code.

2. The participation of a detective or inquest officer in their appropriate capacity in the investigation which had earlier been performed with regard to the given criminal case shall not be a circumstance that exclude their further participation in the procedure associated with the given criminal case.

3. The issue of a recusal of a detective or inquest officer shall be decided by the procurator.

Article 93. Recusal of a Hired Witness

1. A hired witness may not participate in criminal case procedures if any of the circumstances provided for by Article 90 of this Code exist.

2. A hired witness may not participate in criminal case procedures if he is personally or due to his office is dependant on the body leading the criminal procedure.

3. The previous participation of a hired witness in the performance of an investigative act shall not be recognised as a circumstance which exclude his participation in the procedures associated with a given criminal case, other investigative act, except for the cases when the participation of any of the hired witnesses acquire the systematic nature.

4. A recusal against hired witness shall be decided by the person who performs the investigative act.

Article 94. The Recusal of a Secretary of a Court Session and a Bailiff

1. A secretary of a court session or a bailiff may not participate in criminal case procedures in the following cases:

1) when any of the circumstances exists as provided for by Article 90 of this Code;

2) when their incompetence has been discovered.

2. The previous participation of a person in a court session as a secretary of a court session or a bailiff shall not be a circumstance that excludes his further participation in the relevant capacity in the court sessions.

3. The issue of recusal of a secretary of a court session and a court bailiff shall be decided by the court that handles a given case.

Article 95. Recusal of a Translator or Specialist

1. A translator or a specialist may not participate in criminal case procedures in the following cases:

1) when any of the circumstances exist as provided for by the Article 90 of this Code;

2) when their incompetence were discovered.

2. The previous participation of a person as a translator or a specialist shall not be a circumstance that exclude their further participation in their respective capacity in the procedures associated with a given criminal case.

3. The issue of recusal of translator or a specialist shall be decided by the body leading the criminal procedure.

Article 96. Recusal of an Expert

1. An expert may not participate in a criminal case procedures if:

1) if any of the circumstances provided for by Article 90 of this Code exists;

2) if he is or was in service or any other dependence from the inquest officer, detective, procurator, judge, suspect, defendant, their defence, legitimate representatives, victim, civil plaintiff, civil defendant or representatives or specialists;

3) if he performed an audit or any other reviewing acts the result of which served as a basis for institution of proceedings on the criminal case or beginning of criminal prosecution;

4) when his incompetence is established.

2. The previous participation of a given person in a case as an expert shall not be a circumstance that exclude his participation in his respective capacity in the procedures associated with a criminal case, except for the cases when the expert evaluation is performed repeatedly due to doubt that emerged with regard to the accuracy of his report. The participation of an expert in a given case as specialist shall not be a reason for his recusal.

3. The issue of the recusal of an expert shall be decided by the body leading the criminal procedure.

Article 97. Exclusion from Participation in Criminal Case Procedures of Defence, Representative of a Victim, Civil Plaintiff or a Civil Defendant

1. Defence as well as a representative of a victim (of private prosecutor), civil plaintiff, civil defendant may not participate in criminal case procedures if any of the following circumstances exist:

1) if he earlier participated in the case as judge, procurator, detective, inquest officer, secretary of a court session, bailiff, witness, expert, specialist, translator or a hired witness;

2) if he is in kinship relations with the official person who took or is taking part in discovery or court trial of a given case;

3) if he renders or previously rendered legal assistance to the person who has the interests which are opposite to the interests of a person whom he defence or interests of a trustee or is in kinship relations with such persons;

4) if he has no right to be defence or representative by virtue of law or a court decision.

2. The issue of exclusion of defence, representative of the victim (private prosecutor), civil plaintiff or civil defendant from participation in procedures associated with a case shall be decided by the body leading the criminal procedure.

Chapter 12. Ensuring Security of Persons Participating in Criminal Procedures

Article 98. Ensuring the Security of Judges, Procurator, Detectives, Inquest officers, Defence, Experts, Specialists and Bailiffs

1. Judge, procurator, detective, inquest officer, defence, expert, specialist, bailiff and equally their family members and close relatives shall be under the protection of the state.

2. With regard to persons listed in the first part of this Article, the state shall ensure in accordance with the procedure provided for by the law, the adoption of security measures with regard to criminal attempts on their life and other violence in connection with handling of criminal cases or materials in courts, performance of interrogation or preliminary investigation.

Article 99. The Duty to Take Security Measures with Regard to Victims, Witnesses, Indicted and Other Persons who Participate in the Criminal Procedure

1. The body leading the criminal procedure shall be obliged to take security measures with regard to victims, witnesses, indicted persons and other persons who participate in a criminal case and also their family members and close relatives if a real threat exist of commission in their respect of violence or any other act prohibited by criminal law in connection with procedures associated with a given criminal case.

2. The body leading the criminal procedure shall take security measures as indicated in the first part of this Article on the basis oral (written) application or pursuant to its own initiative of which an appropriate resolution shall be passed.

3. Applications of persons who participate in criminal procedures, their family members or close relatives on the taking of security measures must be handled by the body leading the criminal procedure not later than twenty four hours after the moment of their receipt. The applicant shall be immediately notified of the decision adopted and the copy of the relevant resolution shall be directed to him.

4. The applicant shall have the right to challenge with the procurator or at the court a denial to satisfy petition to take security measures with regard to him.

5. A refusal to take security measures shall not impede another application with a petition to adopt said measures if circumstances arise that were not reflect protocoled in the application that was filed previously.

Article 100. Security Measures with Regard to Victims, Witness, Suspects, Defendants and the Other Person who Participate in Criminal Procedures

1. The following shall be applied as procedural security measures with regard to witnesses, suspects, defendants and other persons participating in criminal court procedures, their family members and close relatives:

1) the passing by the body leading the criminal procedure of an official warning to the person from whom the threat of violence or other act prohibited by criminal law emanates, of possible holding of him responsible through criminal procedures;

2) restrictions of access to information concerning the person so protected;

3) probing for his personal security;

4) selection with regard to the defendant, suspect of suppression measures which exclude any opportunities to use (organise use) with regard to participants of the criminal procedure of violence or performance (organisation of performance) of other criminal acts.

2. A warning passed by the body leading the criminal procedure shall be announced to the person and the receipt of signature shall be received from him.

3. Restriction of access to information on protected persons shall consist in the seizure from materials of the criminal case of information concerning questionnaire information of the person and storage of those separately from main document processing, and use it by that person of an alias. The materials separated from the principal documents processing may be accessible for perusal only to the body leading the criminal procedure. Other participants of the process may peruse them only with a permit from the body leading the criminal procedure after giving the signature that said information will not be divulged. The procedural acts with the participation of the protected person when necessary may be performed under conditions that exclude his identification.

4. The procedure for ensuring personal security of witnesses, suspects, indicted persons and other persons who participate in criminal procedures and their close relatives shall be defined by the law.

5. Irrespective of the adoption of security measures the body of criminal prosecution shall be obliged when there are sufficient reasons to institute a criminal case in connection with the threat that was discovered of commission of an act prohibited by the criminal law with regard to a victim, witness, defendant or any other person who participates in the criminal court proceedings.

6. Security measures shall be abolished by a motivated resolution of the body leading the criminal procedure when the need disappears to apply them. A person under protection must be immediately notified on the abolition of measures with regard to his security or disclosure of information of him to persons who participate in the criminal procedure.

Article 101. Providing for Security of Persons who Participate in Court Procedures

1. In order to provide for the security of participants of a court trial the chairman shall perform a close-type sessions of the court and also take steps provided for by the first, second, third and fourth parts of Article 100 of this Code.

2. Pursuant to a petition from the witness, an accusing party as well as pursuant to its own initiative for the purposes of ensuring the security of witnesses and their close relatives, the court shall have the right to pass a resolution on questioning a witness as follows:

1) without disclosing of information of his identity with the use of alias;
2) under conditions that exclude his identification;
3) without visual observance of him by other participants of the court trial.

3. The chairman shall have the right to prohibit the performance of video and audio taping and other techniques for protocoling the questioning, to remove from the court room session the defendant and representatives of the defence.

4. The testimony of a witness questioned by the court in the absence of any of the process participants or outside of their visual observation shall be voiced by the chairman in the court in the presence of all its participants without indicating information on a given witness.

5. In appropriate cases the court shall take other steps to provide for security of participants of the process and other persons as provided for by the law.

6. The implementation of court decree on ensuring security of court trial participants shall be entrusted to the bodies of criminal prosecution and also court bailiff.

Chapter 13. Petitions. Challenging Acts on Decisions of State Bodies and Official Person that Perform Proceedings Associated with Criminal Cases

Article 102. The Duty of Considering Petition of Criminal Procedure Participants

1. The participants of a criminal procedure shall have the right to petition to the inquest officer, detective, procurator, court with petitions to perform procedural acts or adopt procedural decision for establishing the circumstances that are material for the case, ensuring the rights and legitimate interests of the persons who applied with a petition or persons represented by them.

2. Filing of petition shall be possible at any stage of the procedure. A person who filed a petition must indicate for the establishment of what circumstances he asks to perform an act or adopt a decision. Written petitions shall be attached to the file, oral shall be entered into the protocol of investigative act or court sessions.

3. Declination of a petition shall not impede its another filing at subsequent stages of the criminal court procedure or to another body leading the criminal procedure.

4. A petition shall be subject to consideration and decision directly after it is filed. In the cases when immediate adoption of a decision on a petition is impossible it must be decided not later that three days after the day of filing.

5. A petition must be satisfied if it is a comprehensive, full and objective research of the circumstances of the case, ensuring the rights and legitimate interests of participants of the procedure and of other parsons. Another cases the satisfaction on petition may be denied.

6. The body that leads criminal procedure shall pass a motivated resolution which shall be communicated to the person who filed a given petition with regard to the satisfaction of the petition or with regard to full or partial denial of its satisfaction. A decision on a petition may be challenged in accordance with the general rules for filing and handling of complaints as established by this Code.

Article 103. Challenging Decisions and Acts of the Bodies and Official Persons that Perform Procedures Associated with Criminal Cases

1. Decisions and acts of the inquest officer, the body of interrogation, detective, procurator, court and judge may be challenged in accordance with procedure defined by this Code by the participants of the procedure and also citizens and organisations when performed procedural acts infringe their interests.

2. Complaints shall be filed with that state body or that official person who is in charge of proceedings on criminal case, who are authorised by the law to handle complaints and adopt decisions thereon.

3. Complaints may be verbal and written. Verbal complaint shall be entered into protocol to be signed by the applicant and the official person who received the complaint. Verbal complaints which are expresses by citizens when they are received by the relevant official person shall be settled on the same principles as complaints, filed in writing. Additional materials may be attached to complaints.

4. A person who has no command of the language, in which proceedings on a criminal case are carried out, shall be provided for the right to file a complaint in his native language or a language of which he has command.

5. A person who filed a complaint shall have the right to revoke it. A suspect and defendant shall have the right to revoke complaints of their defence; a civil plaintiff, victim (private prosecutor), a civil defendant shall have the right to revoke a complaint of his representative, except for legitimate representative. A complaint filed in the interests of a suspect or defendant may be revoked only with their consent. Revocation of a complaint shall not impede its repeated submission prior to the expiry of deadlines as indicated in Article 105 of this Code, except for the cases directly provided for by this Code.

Article 104. The Procedure for Directing Complaints of Persons who are Detained or Imprisoned

1. Administration of places of preliminary imprisonment shall be obliged to immediately pass to the body leading the criminal procedure complaints addressed to it from persons who are detained under suspicion of commission of crime or who are imprisoned as a measure of suppression.

2. Complaints of persons detained or imprisoned with regard to acts and decisions of the inquest officer, the head of the body of interrogation, detective, the administration of places of imprisonment must be immediately communication to the procurator who supervises the handling of the case, and complaints concerning acts and decision of the procurator - to the upper procurator. Other complaints not later than twenty four hours after the moment of their receipt shall be passed by the administration of places of imprisonment to the person or the body who handles the case.

Article 105. Periods for Submission of Complaints

Complaints concerning acts and decisions of the inquest officer, the body of interrogation, detective, procurator, judge or court may be filed within the term of the entire procedure of interrogation, preliminary interrogation or court trial. Complaints concerning decisions on refusal to institute a criminal case and concerning termination of a criminal case,

concerning sentences passed by first or appellate instance courts shall be filed within period as established by this Court.

Article 106. Suspension of the Implementation of Decisions in Connection with the Filing of Complaints

In the cases provided for by this Code the filing of a complaints shall suspend the implementation of a decision to be challenged. In other cases the filing of a complaint may entail the suspension of the implementation of a decision to be challenged provided that this is recognised as appropriate by the person who handles the complaint.

Article 107. The General Procedure for the Handling of Complaints

1. It shall be prohibited to entrust the implementation of a complaint to the inquest officer, detective, procurator or judge whose acts are challenged and equally to the official person who approved the decision so challenged.
2. When considering a complaint the procurator or judge shall be obliged to comprehensively review the arguments outlined therein, and where appropriate to require additional materials, receive from the relevant official persons, organisations and citizens explanations concerning acts and decisions so challenged.
3. The procurator or judge who handle a complaint shall be obliged within the bounds of their authority to immediately take steps to restore violated rights and legitimate interests of the participants of a given criminal procedure as well as of other citizens or organisations.
4. When the unlawful acts or decisions which are challenged cause moral, physical or property harm to a citizen, his right must be explained with regard to compensation or elimination of damage in the procedure for the exercise of that right as provided for by Chapter 4 of this Code.

Article 108. Complaints Concerning Acts and Decisions of Inquest officer, the Body of Interrogation, Detective and Procurator

1. Complaints concerning acts and decision of the inquest officer, the body of interrogation and detective shall be filed with the procurator who supervises the compliance with the laws when preliminary investigation and interrogation are processed. Complaints concerning acts and decisions of the procurator shall be submitted to the upper procurator. The official person who receive the complaint concerning his own acts or decisions shall be obliged to immediately direct the complaint with his explanations to the relevant procurator. When an official person believes that a complaint is not substantiated than he shall terminate the act which is being challenged or abolishes the decision which is challenged or which he shall communicate to the procurator.
2. The procurator shall be obliged to consider a complaint within three days from the moment of its receipt. In exceptional cases when for the review of a complaint it is necessary to require additional materials or to take other measures it shall be allowed to consider a complaint within a period up to seven days and to notify the person who filed a complaint accordingly.
3. As a result of the consideration of a complaint a decision may be adopted on full or partial satisfaction of the complaint with abolition or amendment of a decision so challenged or to deny the satisfaction of a complaint. In this case a decision passed earlier may not be amended if it entails the deterioration of the status of the person who filed the complaint or the person in whose interest in was filed.
4. A person who filed a complaint must be notified of the decision adopted in accordance with the complaints and concerning further procedure for the challenge. A denial of satisfaction of a complaint must be motivated.

Article 109. Court Procedure for Handling Complaints Concerning Decisions of the Procurator

1. A person shall have the right to file a complaint to the court to challenge a denial of acceptance of application on crime or violation of the law when institution of criminal case was denied, performance of procedural acts infringing the rights and legitimate interests of citizens and organisations, suspension or termination of a criminal case directly or after a similar complaint is left without satisfaction by the relevant procurator.

2. Complaint may be filed at the district court at the place where the relevant procurator office is located, within one month from the date of receipt of the notice from the procurator of the refusal to satisfy it or from the day of expiry of one month period after the filing of the complaint if no response was received in its respect.

3. A complaint shall be considered by a judge individually in a closed-type session for ten days after the moment of its receipt with a notice to the applicant and the procurator of the time of its consideration. A failure to arrive for the court session of the applicant or procurator shall not serve as an impediment to the consideration of the complaint however the judge may establish that the arrival of said persons shall be obligatory. The procurator shall be obliged to submit to the court materials concerning the complaint. The procurator and the applicant shall have the right to provide explanations.

4. The judge upon recognising a complaint as substantial, shall pass a resolution by which he shall abolish the procedural decision which was recognised as illegal, or he shall bind the procurator to eliminate the violation of the rights and legitimate interests of the citizen or organisation that took place. When there are no reasons for satisfying the complaint the judge shall pass a resolution on leaving it without satisfaction.

5. The resolution of a judge passed in accordance with the rules of this Article shall not be subject to challenge or objection.

6. The judge who handles a complaint concerning the decision of the procurator shall not have the right to participate in the settlement of the case with regard to its essence.

Article 110. A Court Challenge of Procurator's Sanctions Concerning Detention and Extension of the Period of Detention of a Suspect or Defendant

1. A suspect or defendant, their defence, legitimate representatives shall have the right to challenge the measures of suppression sanctioned by the procurator, in the form of detention as well as extension of a period of detention at the municipal (district) court in the place where the relevant procurator office is located. The filing of a complaint prior to its settlement shall not suspend the effect of a given resolution on the application of measure of suppression in the form of detention and it shall not entail the release of the person from imprisonment unless this is recognised as appropriate by the body of interrogation, detective or procurator.

2. The judge upon requiring from the body of criminal prosecution the file shall individually in a closed-type session not later than within three days from the moment of receipt of the case perform a review of legality and reasonability of the procurator sanctions concerning the application to the suspect, or defendant of detention as a measure of suppression. The body of criminal prosecution shall be obliged within twenty four hours upon the receipt of request from the judge to present to him the criminal case.

3. In a court session procurator's participation shall be obligatory. Defence, legitimate representative of the suspect or defendant may also participate in a court session, however their failure to arrive without a sufficient reason in the case of timely notice of day of the consideration of the complaint shall not impede its court consideration. Where needed the judge shall provide for the participation in the session of the suspect or the defendant.

4. Upon hearing testimony from the parties, upon considering materials of the criminal case required from the bodies of the criminal prosecution, the judge shall pass one of the following motivated decisions:

1) to leave the complaint without satisfaction;

2) to abolish or amend the measure of suppression for a stricter one and to release the suspect, defendant from imprisonment.

5. A resolution of a judge passed in accordance with the rules of this Article shall not be subject to challenge or objection.

6. A court resolution of the judge shall be passed to the procurator and the applicant and in the case of release of a suspect or defendant from imprisonment - to administration of the place of the maintenance of the person under imprisonment for immediate implementation. When a suspect, defendant are present at a court session than he shall be free from guards in the court session room.

7. In the case that a complaint is left without satisfaction, in the case of each new extension of the period of detention the same person in the same case on the same reason shall have the right to a repeated consideration of his complaint. A repeated complaint shall be considered in accordance with the procedure provided for by this Article.

8. When the judge considers a complaint in accordance with the procedure provided for by this Article protocol shall be kept.

Article 111. Court Challenge of Sanctions of Procurator with Regard to Compulsory Placement of a Suspect or Defendant into a Medical Institution

1. The challenging of the sanctioning by a procurator of forcible placement of a suspect, defendant into a medical institution for the performance of judicial and medical expert evaluation shall be carried out in accordance with the rules provided for by Article 110 of this Code with additions as provided for by the second part of this Article.

2. In the course of court session upon hearing of the views of the parties and considering materials of the criminal case received from the bodies of criminal prosecution and where appropriate - a report from the medical commission, the judge shall pass one of the following motivated decisions:

1) to leave the complaint without satisfaction;

2) to abolish the decision to place the suspect, defendant into a medical institution or to challenge the compulsory measure of medical nature and to release the suspect or defendant from the medical institution.

Article 112. Complaints, Objections Concerning Sentences and Court Decrees

Complaints, objections concerning sentences, decrees of court of the first and appellate instances shall be filed in accordance with rules of Chapter 46 of this Code. Complaints, objections, petitions concerning revisions of court decisions, which entered into legal force, shall be filed in accordance with the rules of Chapter 50 of this Code.

Chapter 14. Concluding Provisions Concerning Persons Participating in the Criminal Procedure

Article 113. The Right to Require the Recognition as a Participant of Procedure

1. Persons who are not participants of a criminal procedure when there are reasons provided for by this Code shall have the right to require their recognition as victims, private prosecutors, civil plaintiffs, civil defendants, their legitimate representatives and representatives. Applications (petitions) of said persons must be considered by the body leading the criminal procedure not later than three days after the moment of their receipt. The applicant shall be notified of adopted decisions immediately and a copy shall be sent to him of the relevant resolution.

2. Applicants shall have the right to challenge with the procurator or at the court any denial of satisfaction of his petition or postponement of its resolution within five days upon receipt of copy the relevant resolution. When copy resolution is not received for ten days from the moment of a submission of a complaint, the applicant shall have the right to apply to the procurator, to the court with an application to recognise him as a participant of the procedure.

3. A close relative, spouse of a deceased or of a person who lost his capacity to reasonable expressed his will as a result of a given crime, may require the recognition of himself as victim if he wants to become his legal successor. Said petition shall be considered by the body leading the criminal procedure in accordance with the procedure provided for by the first part of this Article.

Article 114. The Duty to Explain the Rights and Obligations and to Provide for the Opportunity for their Exercise to Persons who Participate in Criminal Case Procedures

1. Any person who participates in criminal proceedings shall have the right to know his rights and obligations, legal consequences of the position he selected and also to understand the meaning of procedural acts that take place with his participation and the contents of materials presented to him for perusal.

2. The body that leads the criminal procedure must explain to each person who participates in criminal case proceedings, the right he has and the obligations entrusted to him, to provide in accordance with the procedure provided for by this Code the possibility for their exercise. Pursuant to a request of a person the body that leads the criminal procedure shall be obliged to explain his rights and duties repeatedly.

3. The body that leads a criminal procedure shall be obliged to communicate to the participants of the procedure the surnames of the persons to whom recusals may be submitted as well as other information which is required.

4. The rights and obligations shall be explained to the person who acquired the status of the participant of a criminal procedure prior to the beginning of the procedural acts performance with his participation and prior to his expression of any position as a participant of the procedure, in the obligatory procedure. The court shall be obliged to explain to a participant of the procedure who arrived for a court session, his rights and obligations irrespective of whether they were explained to him during the course of pre-trial procedures with regard to the criminal case.

5. The body leading the criminal procedure shall be obliged to explain the obligations and the rights to the hired witness, translator, specialist and expert prior to the beginning of each procedural act that is taking place with their participation. The duties and the rights of witnesses must be explained to them prior to the first questioning by the body of preliminary investigation and repeatedly during the court session.

Section 3. Evidence and Proof

Chapter 15. Evidence

Article 115. The Definition of Evidence

1. Legitimately obtained factual data on the basis of which in accordance with the procedure defined by this Code, the inquest officer, detective, procurator or court establish the existence of absence of an act provided by the Criminal Code of the Republic of Kazakhstan, the commission or non-commission of a given act by the indicted person and the guilt or non guilt of the defendant as well as other circumstances which are material for correct resolution of the case shall be recognised as evidence.

2. Actual data that are material for correct solution of a criminal case shall be established as follows: through testimony of the suspect, defendant, victim, witness; expert reports; tangible proof; protocol of procedural acts and other documents.

Article 116. Actual Data, Which Are Not Admissible As Evidence

1. Actual data must be recognised as inadmissible evidence if they are received through violation of the requirements of this Code, those which by way of deprivation or restriction of the rights of participants of the procedure as guaranteed by the law or by violation of other rules of criminal procedure in the course of investigation or court trial of the case affected or may have affected the reliability of the actual data received, in particular:

1) with the use of violence, threat, deceit and equally other illegal acts;

2) with the use of misguidance of the person participating in the criminal procedure in respect of his rights and obligations as emerged consequentially to a failure to explain, incomplete or incorrect explanation of those to him;

3) in connection with the performance of procedural acts by a person, who has no right to perform procedures in respect of a given criminal case;

4) in connection with the participation in procedural acts of a person, who is subject to recusal;

5) with material violation of the procedure for the performance of procedural acts;

6) from an unknown source or from a source, which may not be established during the court trial;

7) with the use in the course of proving of methods, which contradict contemporary scientific knowledge;

2. Prohibition to use actual data as evidence as well as the possibility of their restricted use in the performance of procedures associated with the criminal case shall be established by the body leading the criminal procedure, upon its own initiative or pursuant to a petition of a party thereto.

3. Testimony of a suspect, of a defendant, victim, or witness, an expert report, tangible proofs, and protocol of investigative and trial acts nor any other documents may be used as the basis for charges, unless they are included into the list of materials of a given criminal case.

4. Evidence obtained in violation of the law shall be recognised as having no legal force and such evidence may not be used as a basis for indictment nor be used when proving any circumstance, as indicated in Article 117 of this Code.
5. Actual data received with violations indicated in the first part of this Article may be used as evidence of the fact of relevant violations and the guiltiness of the persons, who committed them.

Article 117. Circumstances, Which Are Subject to Proof under Criminal Cases

1. The following shall be subject to proof in respect of criminal cases:

1) the event and the features provided for by the criminal law of composition of crimes (time, place, method and other circumstances of commission of a crime);

2) who committed an act prohibited by the criminal law;

3) the guiltiness of a person of commission of an act prohibited by the criminal law, the form of his guilt, the motives of the act so committed, the legal and actual mistakes;

4) the circumstances, which affect the degree and nature of the liability of the defendant;

5) the circumstances, which describe the person, who is the defendant;

6) consequences of crime commissioned;

7) nature and amount of harm caused by the crime;

8) circumstances, which exclude the criminality of a given act;

9) circumstances, which entail release from criminal responsibility and punishment.

2. Additional circumstances, which are subject to proof in cases of crimes committed by minors, are indicated in Article 481 of this Code.

3. Also the circumstances, which assisted the commission of a crime, shall be subject to discovery in respect of criminal cases.

Article 118. Circumstances, Which Are Established without Proof

The following circumstances shall be deemed to be established without proof if within the framework of the appropriate legal procedure the reverse is not proven:

1) facts of general knowledge;

2) the accuracy of the methods of research, which are generally accepted in contemporary science, technology, art and crafts;

3) circumstances, which are established by a court decision that entered into force;

4) the knowledge of law by a given person;

5) the knowledge by a person of his service duties and professional duties;

6) lack of special training or education of a person, who failed to submit a document to prove those and who failed to indicate an educational establishment or any other institution where he could received special training or education.

Article 119. Testimony of a Suspect, Defendant, Victim, Witness

1. The testimony of a suspect, defendant, victim, or witness shall be recognised as information communicated by them in writing or verbally during questioning, performed in accordance with the procedure of interrogation or preliminary investigation in accordance with the procedure as established by Chapter 26 of this Code.

2. A suspect shall have the right to provide testimony in respect of suspicions that exist against him and also on other circumstances known to him, which are material for the case as well as evidence.

3. A defendant shall have the right to provide testimony on charges presented to him, and equally in respect of circumstances known to him that are material for the case, and evidence.

4. The recognition by a defendant of his guilt in the commission of a crime may be used as a basis for charges only when his guilt is confirmed by a set of evidence available in respect of the case.

5. A victim may be questioned in respect of any circumstances, which are subject to proof under a given case and also on his relations with the suspect, defendant, other victims and witnesses. Information, which is communicated by a victim, may not serve as evidence, unless he may indicate the source of his knowledge.

6. A witness may be questioned in respect of any circumstances pertaining to a case, including in respect of the identity of the defendant, victim and in respect of his relations with

them and other witnesses. Information may not serve as evidence when it is communicated by a witness, if the witness may not indicate the source of his knowledge. The communications of persons, who are not subject to questioning as witnesses, shall not be recognised as evidence.

7. Testimony concerning information describing identity of the defendant may not be used as a basis for charges and shall only be used as evidence for deciding on the issues associated with the appointment of punishment or release from punishment.

8. Testimony of a person, who in accordance with the procedure established by this Code was recognised as incapable at the moment of the questioning of accurate perception or retrieval of circumstances, which are material for the criminal case, shall not be recognised as evidence.

Article 120. Expert's Report

1. An expert's report is conclusions presented in accordance with the written form as established by this Code, on issues set before the expert by the body leading the criminal procedure, or by parties, based on results of research of objects as performed with the use of special scientific knowledge, as indicated in Article 248 of this Code. Methods, which have been used by an expert in the course of research, the substantiation of answers to questions set, as well as the circumstances, which are material for the case and established on the initiative of the expert himself, shall be stipulated in the report.

2. Verbal explanations of an expert shall be recognised as evidence only in as much as they are explanations concerning a report issued by the expert before.

3. An expert's report shall not be obligatory for the body leading the criminal procedure, however its disagreement with the report must be motivated.

Article 121. Tangible Proof

1. Tangible proofs shall be recognised as items when there are reasons to believe that they served as tools of crime or preserved on themselves the traces of a crime or were used as objects of criminal acts, as well as funds and other valuables, items and documents that may serve as items for discovery of a crime, establishment of actual circumstances of cases, discovery of the guilty persons or refutation of charges, or mitigation of liability shall be recognised as tangible proofs.

2. Tangible proof shall be attached to a given case by a resolution of the body leading the criminal procedure and they shall be attached thereto until the sentence or decree on termination of the case enters into legal force. The procedure for examination of tangible proofs and for their safe custody shall be defined by Article 223 of this Code.

3. When a sentence is passed or a case is terminated, the issue must be decided in respect of tangible proofs. In this respect:

1) the tools of a crime shall be subject to confiscation or they shall be transferred to appropriate institutions to individual persons or they shall be destroyed;

2) things, which are prohibited for circulation shall be subject to the transfer to appropriate institutions or they shall be destroyed;

3) things, which do not represent any value, and may not be used shall be subject to destruction and in the case of petition of interested persons or institutions they may be handed out to them;

4) funds and other valuables earned through a criminal method, pursuant to a court sentence, shall be subject to inclusion into the revenue of the State; other things shall be handed out to their legitimate owners, and in the case that the latter are not established, they shall become property of the State. In the event of a dispute on the ownership of those items, such dispute shall be subject to resolution in accordance with the procedure of civil court proceedings;

5) documents, which are tangible proofs, shall remain attached to the case for the entire time of safe custody of the latter or they shall be transferred to interested organisations or citizens in accordance with the procedure as provided for by the third part of Article 123 of this Code.

Article 122. Protocol of Procedural Acts

1. Evidence in respect of criminal cases shall be recognised as the actual information, which is contained in protocol compiled in accordance with the rules of this Code on investigative acts that certify circumstances directly perceived by the person, who leads the

criminal procedure, those established in the course of inspection, witnessing, seizure, search, detention, imposition of arrest on property, seizure of correspondence, interception of messages, eavesdropping and taping of telephone and other talks, presentation for recognition, obtaining samples for research, exhumation of a dead body, review of testimony at site, investigation experiment, research of tangible proofs as performed by a specialist in the course of investigative acts, as well as of those, which are contained in protocol of court sessions protocoling the course of judicial acts and their results.

2. Factual data contained in protocol compiled when adopting a verbal application on crime, on presented items and documents, concerning arrival with confession, explanation to persons of their rights and duties entrusted to them may be used as evidence.

Article 123. Documents

1. Documents shall be recognised as evidence if information outlined or certified in them by organisations, official persons and citizens is material for a given criminal case.

2. Documents may contain information fixed both in writing and in any other form. In particular, the materials of pre-trial review (explanations and other testimony, acts of compilation of inventories, audits, confirmation documents), as well as materials, which contain computer information, photographs and cinema tapes, sound and video protocols received, claimed or presented in accordance with the procedure provided for by Article 125 f this Code.

3. Documents shall be attached to cases and kept together with the files during the entire period of the cases' safe custody. In the event that documents seized and attached to a case are required for current accounting for, reporting or for any other legitimate purposes, they may be returned to their legitimate owner or given for temporary use, if this is possible without detriment to the case or their copies may be given.

4. In the case when documents have indications as stipulated in Article 121 of this Code, they shall be recognised as tangible proofs.

Chapter 16. Burden of Proof

Article 124. Burden of Proof

1. The burden of proof consists in collecting, researching, evaluating and using evidence for the purposes of establishing the circumstances that are material for a legitimate, substantial and fair settlement of a given case.

2. The burden of proof of existence of reasons for criminal liability and of guilt of a defendant shall rest with the prosecutor.

Article 125. Collection of Evidence

1. The collection of evidence shall be carried out in the course of pre-trial proceedings and through the trial procedure by way of performing investigative and judicial acts provided for by this Code. The collection of evidence shall include their discovery, registration and seizure.

2. The body leading the criminal procedure pursuant to petitions of the parties or on its own initiative shall have the right in respect to a criminal case handled by it to summon, in accordance with the procedure established by this Code, any person for questioning or for providing reports as experts; perform the procedural acts as provided for by this Code; to require from organisations, their managers, official persons, citizens, as well as bodies performing operative and investigative activity, the presentation of documents and objects that are material for the case; to require the performance of audits and reviews by authorised bodies and official persons.

3. The defence allowed, in accordance with the procedure established by this Code, to participate in the case shall have the right to present evidence and to collect information, which is required for the rendering of legal assistance, in particular to question private individuals and to require confirmation documents, descriptions and other documents from organisations, which are obliged, in accordance with the procedure established by the law, to give out those documents or their copies; to request with the consent of the defendant the opinion of persons, who have special knowledge, in respect of issues, which arise in connection with the rendering of legal assistance, the settlement of which requires their use.

4. Information either in verbal or in written form, as well as objects and documents that may be used as evidence, may be presented by the defendant, suspect, defence, private

prosecutor, victim, civil prosecutor, civil defendant and their representatives, as well as any other citizens and organisations.

Article 126. Registration of Evidence

1. Factual information may be used as evidence only after its registration in the protocol of procedural acts.

2. The liability for the maintenance of protocol in the course of interrogation and preliminary investigation shall be entrusted appropriately to the inquest officer and a detective, and in the court room – to the chairman and the secretary of a given court session.

3. The right to peruse protocol, in which the course and the results of acts are registered, must be ensured to participants of investigative and judicial acts, as well as the parties to a trial procedure, as well as to introduce to the protocol any additions and corrections, to express comments and objections with regard to the procedure and conditions of performance of a given act, to propose their own version of notes of the protocol, to draw attention of the inquest officer, investigator or court to the circumstances that may be material for the case. Notes shall be made in the protocol concerning explanation to the participants of investigative and judicial acts of their rights.

4. Additions, corrections, notes, objections, petitions and complaints expressed verbally shall be entered into the protocol, and those, which are outlined in the written form shall be attached to the protocol. Stipulations must be made in respect of crossed or inserted words and other corrections before the signatures at the end of the protocol.

5. Persons, who perused the protocol of an investigative act, shall affix their signatures under the last line of the text on each page and at the end of the protocol. When perusing part of a protocol of a court session, the signatures shall be affixed at the end of each page and at the end of a given section.

6. In the event of disagreement with the comments or objections, the inquest officer, detective or the court shall pass a resolution thereon.

7. In the case of the refusal of one of the participants of the procedure or other persons to sign, in the cases provided for by the law, the protocol of an investigative act, the inquest officer or detective shall make an appropriate note in the protocol, which shall be certified by his signature.

8. In the case of a refusal to sign, in the cases provided for by the law, a note on a judicial act as made in the protocol of a court session, an appropriate note shall be made in the protocol, which shall be certified by the chairman and the secretary of the court session with their signatures.

9. A person, who refused to sign protocol, shall have the right to explain the reason for such refusal and this explanation must be entered into the protocol.

10. When participants of procedural acts because of their physical setbacks may not themselves to read or sign protocol, then, with his consent the protocol shall be read aloud and signed by his defence, representative or any other citizen, to whom that person trusts, and on which a note shall be made in the protocol.

11. In order to register evidence, together with the compilation of protocols, sound protocols, videotapes, motion pictures, photographs, moulds, seals, plans, charts and other methods for fixing of information may be used together with the compilation of protocol. Note shall be made on the use by participants of investigative acts or court procedures of said methods for registering evidence accordingly in the protocol of the given investigative act or in the protocol of the court session with the attachment of technical parameters of the science and technology facilities so used.

12. Sound tracks, video protocols, films, photographs, moulds, replicas, plans, charts and other images of the course and results of investigative or judicial acts shall be attached to the protocol. On each supplement an explanatory note must be attached showing the name, place, date of investigative or judicial act, to which a given supplement relates. Such notes shall be certified by the inquest officer or detective, and in appropriate cases, by hired witnesses, and in the courtroom – the chairman and the secretary of a court session with their signatures in the course of pre-trial proceedings in respect of cases.

Article 127. Examining Evidence

Evidence collected in respect of a case shall be subject to comprehensive and objective examination. Such examination shall comprise the analysis of obtained evidence and its comparison with other evidence, the collection of additional evidence, review of sources, from which evidence was obtained.

Article 128. Evaluation of Evidence

1. Each piece of evidence shall be subject to evaluation from the point of view of relevance, admissibility, veracity, and all the evidence in their entirety – from the point of view of sufficiency for the resolution of a given criminal case.

2. In accordance with Article 25 of this Code, the judge, the procurator, the detective, inquest officer shall evaluate evidence on the basis of their internal conviction based on comprehensive, full and objective consideration of evidence in its entirety guided by the law and their conscience.

3. Evidence shall be recognised as relevant to a case, if it represents factual data, which confirm, deny or doubt the conclusions concerning the existence of circumstances, which are material for the case.

4. Evidence shall be recognised as admissible, if it is obtained in accordance with the procedure as established by this Code.

5. Evidence shall be recognised as true, if as a result of a review it is discovered that it is consistent with the reality.

6. The entirety of evidence shall be recognised as sufficient for the resolution of a criminal case, if all admissible and reliable evidence is collected and they unquestionably establish the truth in respect of all and each of circumstances, which are subject to proof.

Article 129. Science and Technology Facilities in the Course of Proving

1. For the purposes of collecting, examining and evaluating evidence, the body leading the criminal procedure shall have the right to use science and technology facilities.

2. In order to render assistance in the use of science and technology facilities by the body leading the criminal procedure, specialists may be hired.

3. The application of science and technology facilities shall be recognised as admissible, if they:

1) directly provided for by the law and do not contradict its rules and principles;

2) based on science;

3) provide for efficiency of criminal case procedures;

4) safe.

4. The use of science and technology facilities by the body leading the criminal procedure shall be registered in the protocol of the relevant procedural acts with the indication of given science and technology facilities, conditions and the procedure for their application, objects, to which those facilities were applied and the results of their use.

Article 130. The Use of Results of Operative and Investigative Activities in Proving under Criminal Cases

Results of operative and investigative activities obtained in compliance with the requirements of the law may be used in proving under criminal cases in accordance with the provisions of this Code, which regulate the collection, examination and evaluation of evidence.

Article131. Prejudicion

1. A sentence, which entered into legal force, as well as any other court decision on a criminal case, which also entered into legal force, shall be obligatory for all State bodies, organisations and citizens in respect of both established circumstances and their legal evaluation. This provision shall not impede a review, abolishing or alteration of a sentence and other court decisions in the procedure of supervision due to newly discovered circumstances.

2. A court decision on a civil case, which has entered into legal force, shall be obligatory for the body leading the criminal procedure when performing procedures associated with a criminal case only in respect of the issue of whether the event or act themselves took place and it must not prejudice conclusions on whether the defendant is guilty or not guilty.

3. A court sentence that entered into force, which recognises the right to satisfy a lawsuit, shall be obligatory in that respect for the court when it considers a civil case.

4. No resolution of a body of criminal prosecution shall have binding force for the court.

Section 4. Measures of Procedural Compulsion

Chapter 17. Detention of a Suspect

Article 132. Reasons for Detention

1. Detention of a person, who is suspected of commission of a crime – a measure of procedural compulsion, which is applied for the purposes of discovering his complicity in the crime or for deciding on the issue of application to him of a measure of suppression in the form of detention.

2. The body, which performs criminal prosecution, shall have the right to detain a person, who is suspected of commission of a crime, for which a punishment may be sentenced in the form of deprivation of freedom, when one of the following preconditions exist:

1) when a given person is caught in the commission of a crime or directly after its commission;

2) when the eye-witnesses, in particular the victims, directly point at a given person as a person, who committed the crime or detain that person in accordance with the procedure provided for by Article 133 of this Code;

3) when on that person or on his cloths, on him or in his housing obvious traces of a crime are established;

4) when in materials obtained in accordance with the law of operative and investigative activities in respect of the person there are reliable data on his commission or on his preparation of a grave or especially grave crime.

3. When other information is available that gives rise to suspect a person in the commission of a crime, he may be detained only in the event, if that person tried to disappear or when he has no permanent place of residence, or the identity of a suspect is not established.

Article 133. The Right of Citizens to Detain Persons, Who Committed Crimes

1. A victim, as well as any other citizen shall have the right to detain a person, who committed a crime, for the purposes of eliminating the opportunity of his commission of other assaults.

2. In the cases provided for by the first part of this Article, physical force and other facilities may apply to a person so detained, if he renders resistance, within the limits as provided for by Article 33 of the Criminal Code of the Republic of Kazakhstan. When there are reasons to believe that a detained person has arms or any other dangerous objects, or items, which are material for a criminal case, the citizen, who detained him, shall have the right to inspect the cloths of the person so detained and to seize for the transfer to the law enforcement bodies or any other body of State power the objects he has on him.

Article 134. The Procedure for Detention of a Suspected of Commission of a Crime

1. Within a period not longer than three hours after the bringing of a detained person to the body of interrogation or to a body of preliminary investigation, the detective or inquest officer shall compile protocol, in which they shall indicate the reasons and motives, the place and time of detention (with indication of hour and protocol), the results of personal search, as well as the time when the protocol were compiled. The protocol shall be read to the detained person and in this case, the rights of a suspect shall be explained to him as provided for by Article 68 of this Code, in particular the right to invite defence and to testify in his presence, which shall be noted in the protocol. The protocol of detention shall be signed by the person, who compiled it and by the detainee. The inquest officer or the detective shall be obliged to notify the procurator in writing on detention they made within twelve hours from the moment of the compilation of the protocol of detention.

2. A person detained must be questioned in accordance with the rules of this Code.

Article 135. Personal Search of a Detainee

A person, who performed the detention shall have the right, in the compliance with the rules provided for by Article 233 of this Code, to immediately perform personal search of a detained persons in the cases when there are reasons to believe that he has arms or tries to relieve himself of evidence that prove his commission of a crime or in other appropriate cases.

Article 136. The Reasons for Releasing a Person Detained under Suspicion of Commission of a Crime

1. A person detained because of a suspicion in commission of a crime shall be subject to release pursuant to the resolution of the inquest officer, detective or procurator, if:

1) the suspicion of commission of a crime was not confirmed;

2) there are no reasons to apply to a person detained a measure of suppression in the form of detention;

3) the detention was performed in violation of requirements of Article 134 of this Code.

2. A measure of suppression in the form of detention must be selected within seventy-two hours from the moment of detention in respect of a suspect, in accordance with the procedure provided for by this Code or he shall be subject to release.

3. When during seventy-two hours from the moment of detention no resolution from an inquest officer or detective as being received by the chief of the place of detention of a detainee, sanctioned by the procurator on application to a given detainee of detention as a measure of suppression, the chief of the place of maintenance of the detainee shall immediately release him by his resolution and he shall notify of that the person, who handles the case or the procurator.

4. In the case of a failure to implement the requirements of the third part of this Article, the chief of the administration of the place of maintenance of a detainee shall be held responsible in accordance with the law.

5. In the case of the release of a detainee, the latter shall be given a document, which says by whom he was detained, the reasons, the place and the time of detention, the reasons and the time of release.

Article 137. The Procedure for the Maintenance under Imprisonment of Persons Suspected of Commission of Crimes

Persons detained under suspicion of commission of a crime shall be kept in temporary maintenance rooms. The procedure and terms for the maintenance under imprisonment of persons detained under suspicion of commission of a crime shall be defined by legislation.

Article 138. Notification of Relatives of a Suspect of Detention

1. The inquest officer or detective shall be obliged within twelve hours to notify anyone of full-aged members of the family of a detained person, and if they are not available – other relatives or close persons on the detention of a suspect and the place of his location, or to provide an opportunity for such notification to the suspect or accused person himself.

2. When a detained person is a citizen of another State, then within established period, the embassy, the consulate or any other representation of that State must be notified.

3. Under exceptional circumstances, when this is dictated by special nature of a case, for the purposes of appropriate ensurance of the compliance with the secrecy of the initial stage of investigation, with the sanction from the procurator, or his deputy, the notification of said persons may not be performed for seventy-two hours from the moment of such detention, except for the cases when the suspect is a minor.

Chapter 18. Measures of Suppression

Article 139. Reasons for the Application of Suppression Measures

When there are sufficient reasons to believe that a given defendant will elude the interrogation, preliminary investigation or court, or will impede objective investigation and trial of the case in the court, or will continue to engage in criminal activities, and also for ensuring the implementation of a sentence, the body leading the criminal procedure, within the bounds of its authority shall have the right to apply to a given person one of the measures of suppression as provided for by Article 140 of this Code.

Article 140. Measures of Suppression

Measures of suppression shall be as follows:

1) signature of non-leaving the place and appropriate behavior;
2) personal pledge;
3) submission of a military serviceman under the supervision of the commanders of the military unit;
4) submission of a minor under supervision;
5) pledge;
6) home arrest;
7) detention.

Article 141. Circumstances, Which Are Taken into Account When Selecting a Measure of Suppression

When deciding of the issue of the need to apply a measure of suppression and what measure exactly, aside from the circumstances indicated in Article 139 of this Code, also the gravity of presented charges, the individuality of the defendant, his age, condition of health, family status, type of occupation, property status, availability of a permanent place of residence, as well as other circumstances must be taken into account.

Article 142. Application of a Measure of Suppression in respect of a Suspect

1. In exceptional cases when there are reasons as provided for by Article 139, and subject to the circumstances indicated in Article 141 of this Code, a measure of suppression may be applied in respect of a suspect. In this case, the charges must be presented to the suspect not later than ten days after the moment of the application of a measure of suppression, and when the suspect was detained and then imprisoned – within the same period from the date of detention. When within that period of time no charges are presented, the measure of suppression shall be immediately abolished.

2. If in twenty-four hours prior to the expiry of the period indicated in the first part of this Article, the head of the place of maintenance under imprisonment has not received of presentation to a given suspect in respect of whom detention was used as a measure of suppression, for charges, the head of the place of maintenance under imprisonment shall be obliged to notify the body or the person, who handles the criminal case, as well as the procurator, appropriately. If upon expiry of the period indicated in the first part of this Article, the appropriate decision on the abolishing of a measure of suppression or presentation to the suspect of charges has not been received, the head of the administration of the place of imprisonment shall release him by his resolution, the copy of which within twenty-four hours shall be sent to the body or the person, who handles the criminal case, or the procurator.

3. In the case of a failure to comply with the requirements of the second part of this Article, the head of the administration of the place of imprisonment shall be held responsible as established by the law.

Article 143. The Procedure for Application of Measures of Suppression

1. A defendant (suspect) may not be subject to two or more measures of suppression.

2. A resolution shall be passed by the body leading the criminal procedure on application of measures of suppression, which contains an indication of the crime of which the person is suspected or charged, and the reasons for the application of a gives measure of suppression. A copy resolution shall be handed to the person, in resect of whom it is passed and simultaneously he shall be explained the procedure for challenging decisions on the application of the measure of suppression as provided for by this Code.

3. In the event that a suspect or defendant commits acts, for the prevention of which the measures provided for by Auricles 144, 145, 146, 147, 148, 149 of this Code were applied, he shall be subject to a stricter measure of suppression, of which the defendant or suspect must be informed when the copy of the relevant resolution is handed to him.

Article 144. Signature of Non-leaving the Place and Appropriate Behavior

The signature of non-leaving a given place and appropriate behavior consists in the taking from the suspect or defendant by the body leading the criminal procedure of a written obligation not to leave his permanent or temporary place of residence without a permit from the

inquest officer, detective or court, not to impede the investigation and trial of the case in the court, on appointed dates to arrive upon summons of the body leading the criminal procedure.

Article 145. Personal Pledge

1. Personal pledge consists in the assumption by persons, who deserve trust of a written obligation that they are pledging the appropriate behavior of a given suspect or defendant and their arrival on summons of the body leading the criminal procedure. The number of persons so pledging may not be less than two.

2. The selection of personal pledge as a measure of suppression shall only be allowed pursuant to a written petition of the pledgees with the consent of the person, in respect of whom pledge is issued.

3. The pledgee shall issue a signature of personal pledge, in which he shall confirm that the essence of the charges in respect of the person, of whom he gives pledge is explained to him, as well as the liability of the pledgee consisting in the imposition on him of a pecuniary punishment in the case of the commission by a given suspect or defendant of acts, for the prevention of which a given measure of suppression is applied.

4. The pledgee at any time of the procedures associated with the criminal case shall have the right to refuse from the pledge.

5. In the event that a given suspect or defendant commits acts, for the prevention of which personal pledge was used, each pledgee may be subject to pecuniary punishment as applied by the court in an amount up to one hundred monthly assessment indices, in accordance with the procedure provided for by Article 160 of this Code.

Article 146. Supervision of the Commanders of a Military Unit of Military Servicemen

1. The supervision by commanders of a military unit of a suspect or defendant, who are military servicemen, or a person, who is under military duty, drafted for training, shall consist in the adoption of measures provided for by the Codes of the Armed Forces and Internal Troops of the Republic of Kazakhstan and which are sufficient for ensuring appropriate behavior of a given person and his arrival on summons of the body leading the criminal procedure.

2. The commanders of a military unit shall be informed of the essence of the case, in respect of which a given measure of suppression was selected. The commanders of a military unit shall in writing notify the body that selected a given measure of suppression on establishing the supervision.

3. In the event that a suspect or defendant commits acts, for the prevention of which a given measure of suppression was selected, the commanders of a given military unit shall be obliged to immediately notify the body that selected a given measure of suppression.

4. Persons, who are guilty of a failure to comply with the duties entrusted to them in respect of such supervision, shall be subject to disciplinary responsibility as provided for by legislation.

Article 147. Submission of a Minor under Supervision

1. The submission of a minor under the supervision of parents, guardians, tutors or any other trusted persons, as well as the administration of a special purpose children's institution, in which he is, shall consist in the assumption by somebody of said persons of a written obligation to provide for appropriate behavior of a given minor and his arrival on summons of the body leading the criminal procedure.

2. The submission of a minor under the supervision of the parents and other persons shall only be possible upon their written petition.

3. When a signature is taken on submission under supervision, the parents, guardians, tutors, representatives of the administration of special purpose children's institutions shall be notifies of the nature of the crime, of which the minor is suspected or charged with, and of their liability in the event that they violate the duties they assumed with regard to the supervision.

4. To persons, to whom a minor was given for supervision, in the case of their failure to comply with the obligation assumed, the measures of punishment may be applied as provided for by the fifth part of Article 145 and Article 160 of this Code.

Article 148. Bail

1. Bail shall consist in funds, which are paid by the suspect or defendant themselves or by any other physical person or legal entity as a deposit to the court to ensure the compliance by the suspect or defendant with the duties associated with the arrival to the bodies of interrogation, investigation or to the court upon their summons. With a permit from the procurator or the court other valuables and immovable assets may be accepted as pledge. The burden of proof of pledged values shall rest with the pledger. Amount of pledge shall be determined by the person, who selects this measure of suppression subject to the gravity of the charges, individuality of the suspect, defendant, the property status of the pledger. Bail shall not apply in respect of the persons, who are accused of commission of especially grave crimes.

2. Bail shall only apply with the sanction of the procurator or pursuant to a court decision.

3. Amount of bail may not be less than: one hundred times amount of monthly assessment index – in the case of charges of commission of a crime of small gravity; three hundred times amount of monthly assessment index – when charges consist in commission of a negligent crime of medium gravity; five hundred times amount of monthly assessment index – in the case of charges of commission of a deliberate crime of middle gravity; one thousand times amount of monthly assessment index – in the case of charges of commission of a grave crime.

4. The bailor, if he is not the suspect or defendant himself, shall be explained the essence of the charges of the person, in respect of whom this measure of suppression is applied. When bail is accepted, a protocol shall be compiled, in which it shall be stated that a given suspect or defendant were explained their duties as provided for by the first part of this Article, and the bailor is notified that in the case of evasion of the suspect or defendant from arrival upon summons, the bail shall be converted into revenues of the State. The protocol shall be signed by the official person, who selected this measure of suppression, the suspect, defendant, as well as a bailor, if the bailor is a third person. The protocol and the document on the deposition of bail at the court shall be attached to the materials of the case, and a copy protocol shall be handed to the bailor.

5. In the event that a person suspected or charged evades the arrival upon summons of the body leading the criminal procedure, the measure of suppression shall be altered for a stricter one.

6. In the case indicated in the fifth part of this Article, the procurator shall direct to the court a presentation on the conversion of bail into the revenue of the State. The court shall adopt appropriate decision that may be challenged by the bailor at the upper court.

7. In other cases the court when passing sentence or decree on termination of a case shall decide on the issue of return of bail to the bailor.

8. When a criminal case is terminated at the stage of preliminary investigation, the bail shall be returned to the bailor pursuant to a resolution of the body of interrogation or preliminary investigation.

Article 149. Home Arrest

1. Home arrest shall apply to suspects and defendants with the sanctions of the procurator or upon a court decision, in accordance with the procedure provided for by Article 150 of this Code, provided there are conditions, which allow to select the measure of suppression in the form of detention, but when the full isolation of the person is not caused by the need or is not expedient subject to the age, health condition, family status and other circumstances.

2. In a resolution on the selection of this measure of suppression specific restrictions of freedom shall be indicated, to which the detained person shall be subjected, and the body or official person, to whom the performance of supervision of compliance with the established restrictions is entrusted. The person so detained may be prohibited to communicate with certain persons, receipt and sending of correspondence, conducting of negotiations with the use of any communication facilities, as well as restrictions may be established in respect of leaving the housing. The place of housing of a person arrested may be guarded. His behavior, when necessary may be subject to monitoring.

3. The period of a home arrest, the procedure for its extension and challenging shall be determined in accordance with the rules as established by Articles 110 and153 of this Code.

Article 150. Detention

1. Detention as a measure of suppression shall only apply with the sanctions of the procurator or upon a decision of the court and only in respect of a defendant (suspect) of commission of crimes, for which the law specifies the punishment in the form of deprivation of freedom for a period in excess of two years. In exceptional cases this measure of suppression may be applied in respect of a person accused (suspected) in cases of crimes, for which the law specifies the punishment in the form of deprivation of freedom for a period not longer than two years, if:

1) he has no permanent place of residence in the territory of the Republic of Kazakhstan;

2) his identity is not established;

3) he violated a measure of suppression, which was elected earlier;

4) he tried to hide away or eluded the bodies of criminal prosecution or from the court.

2. When it is necessary to select detention as a measure of suppression, the detective, inquest officer shall pass a resolution on selecting a given measure of suppression. In the resolution there must be outlined the motives and reasons, by virtue of which the need emerged to imprison the accused (suspect). Materials, which confirm the reasonability of selection of a given measure of suppression shall be attached to the resolution. If the resolution on selecting detention as a measure of suppression is passed in respect of a suspect, detained, in accordance with the procedure of Articles 132, 134 of this Code then it must be presented to the procurator not later than six hours prior to the expiry of the period of detention.

3. A resolution on selecting detention as a measure of suppression shall be subject to immediate consideration by the procurator within six hours from the moment of receipt of materials to the procurator office.

4. The right to issue sanctions for detention shall rest with: the Procurator General of the Republic of Kazakhstan, the Chief Military Procurator, their deputies, procurator of provinces, their deputies, district and municipal procurators, as well as military, transport and other procurators, who function with the rights of procurators of provinces, district or municipal procurators and their deputies, procurators acting with the right of procurators of the provinces.

5. A procurator shall issue sanctions for detention of a defendant (suspect) when there are reasons provided for by the law and in the event that there is no possibility to prevent this consequence specified in Article 139 of this Code by way of selecting a more lenient measure of suppression. When deciding on the issue of suctions for detention, the procurator shall be obliged to carefully peruse the materials that contain the reasons for imprisonment and personally to question the defendant (suspect). In the course of inquestioning the inquest officer, detective, defence may be present and express their opining in respect of the issue in question, and if a minor participates in a given case, the legitimate representatives of the minor defendant (suspect).

6. Upon considering a resolution on selecting a measure of suppression and materials containing the reasons for the detention and upon questioning the defendant (suspect), the procurator shall issue sanctions on application to the defendant (suspect) of measures of suppression in the form of detention or he shall deny the issue of sanctions. The resolution with the sanctions of the procurator or with the note of refusal to issue sanctions shall be directed to the detective, inquest officer, defendant (suspect) and it shall be subject to immediate implementation.

7. A procurator's denial to issue sanctions for detention shall not be subject to challenge. A repeated appeal to the procurator for sanctions to detain one and the same person in respect of the same case after the procurator's denial to issue such sanction for the application of such measure as well as the abolition of that measure of suppression by the court in accordance with the procedure provided for by Article 110 of this Code shall only be possible after the discovery of new circumstances that prove the need to detain a given person.

8. When the issue on application of detention as a measure of suppression in respect of a person on trial arose at the court than the decision on that shall be decided by the court pursuant to petitions of the parties or pursuant to its own initiative of which a decree shall be issued.

9. When there is no sufficient reason to satisfy a petition to apply to a suspect or defendant a measure of suppression in the form of detention, a procurator and the court shall have the right a more lenient measure of suppression. The procurator and the court shall have

the right to replace a measure of suppression in the form of detention or home arrest applied to a defendant (suspect) for a bail. In this case the defendant (suspect) shall remain detained or under home arrest until the amount specified is actually deposited for him to the court. After this the procurator's resolution shall be implemented.

10. The relatives of the suspect, defendant must be notified on application of detention as a measure of suppression by the inquest officer, detective, procurator or the court in accordance with the procedure as established by Article 138 of this Code. Under exceptional circumstances when this is required due to special nature of the case for the purposes of appropriate ensuring of compliance with the secrecy of the initial stage of investigation, with the sanctions from the procurator, a notice may be delayed for a period not longer than ten days from the moment of actual detention, except for the cases when this measure of suppression is applied to minors.

Article 151. Detention of Suspects and Defendants to whom Detention is Applied as a Measure of Suppression

Suspects and defendant to whom detention is applied as the measure of suppression shall be maintained in penitentiary. The procedure and terms shall be defined by legislation.

Article 152. The Maintenance of Suspects and Defendants to Whom Detention is Applied as a Measure of Suppression in Places Where Detainees are Kept

In the cases when deliberate to an investigation penitentiary of a suspect or defendant in respect of whom detention was applied as a measure of suppression, is impossible because of remoteness or lack of appropriate means of communication, such persons upon the resolution of the procurator as well as on the resolution of the inquest officer or detective as sanctioned by the procurator or his deputy, may up to thirty days be detained in penitentiaries for temporary maintenance. In the same procedure the same persons may be transferred for said period from investigation penitentiaries to penitentiaries of temporary maintenance for the performance of investigative acts or for the consideration of the case by the court. The procedure and conditions of maintenance under imprisonment of such persons shall be defined by legislation.

Article 153. Period of Detention and the Procedure for their Extension

1. The period of detention in the case of pre-trial procedure associated with the case may not exceed two months, save exceptional circumstances provided for by this Code.

2. In the event that it is impossible to complete an investigation within a period under two months and when there are reasons for the alteration or abolition of a suppression measure this period may be extended pursuant to a motivated petition of the detective, by the district, municipal procurator or a military or any other procurator equated to those, - up to three months and in the case of the procurator of a province and procurators equated to those as well as their deputies, based on the motivated petition from the detective supported by a district, municipal procurator or a military or any other procurator equated to a municipal procurator - up to six months.

3. The extension of a period of detention in excess of six months may be carried out by a deputy General Procurator, Chief military procurator only in view of special complexity of a case pursuant to a motivated petition of the head of the investigative department as supported by the procurator of the province and procurators equated to the procurator of the province - up to nine months.

4. The extension of a period of detention in excess of nine months shall be allowed in exceptional cases in respect of persons who are accused of commission of a grave or especially grave crimes, by General Procurator of the Republic of Kazakhstan on motivated petitions from a procurator of a province and procurators equated to them - up to twelve months. The issue of extending detention for a period in excess of nine months shall prior be considered by a collegium of the General Procurator of the Republic of Kazakhstan.

5. Further extension of the period of detention shall not be allowed, the detained defendant shall be subject to immediate release. The period of detention may not exceed the maximum period of deprivation of freedom provided for by criminal law for the commission of a crime incriminated to a defendant.

6. The petition on extending the period of detention shall be filed to the district, municipal procurator and to military and other procurators equated to them, to the procurator of

a province, a procurators equated to him not later than seven days after the expiry of the period of detention. And in the case of the General Procurator of the Republic of Kazakhstan, his deputies and main military procurator - not later than fifteen days prior to the expiry of a period of detention.

7. The petition to extend the period of detention shall be subject to consideration to the Procurator General of the Republic of Kazakhstan, his deputies as well as the Chief military procurator within a period not longer than ten days, and in the case of lower procurator - within a period not longer than five days from the moment of the receipt of the petition.

8. Upon considering of a petition the procurator shall sanction the extension of the period of detention of a given defendant or he shall deny the satisfaction of petition. Upon expiry of a period of detention unless it is extended, the defendant shall be subject to immediate release.

9. The head of administration of a place of imprisonment shall be obliged in the period not later than twenty four hours prior to the expiry of the period of detention of a defendant to notify appropriately the body or the person who handles the given criminal case as well as the procurator. If upon expiry of a period of detention as established by the law as a measure of suppression, an appropriate decision on the release of a defendant on extending the period of his detention as a measure of suppression or communication on such a decision has not be received the head of the administration on the place of imprisonment shall release him by his resolution the copy of which within twenty four hours shall be directed to the body or person who handles the criminal case and to the procurator.

10. In the case of failure to implement the requirements of the ninth part of this Article the head of the administration of the place of imprisonment shall be held responsible in accordance with the law.

11. The period of detention shall be calculated from the moment when a defendant (suspect) is imprisoned and until the case is directed by the procurator to the court. A period of detention shall also include the time when a person is detained as a suspect, the time of home arrest or compulsory stay in a psychiatric or any other medical institution pursuant to a court decision. The period of the perusal of a defendant and his defence of materials of their criminal case shall not be taken into account when calculating the period of detention.

12. In the event of another detention of a given defendant (suspect) under the same case and also in respect of a criminal case which was added to it or separated from it, the period of detention shall be calculated with the inclusion of time spent in imprisonment.

13. When a case is returned by the court for additional investigation on which the maximum period of detention of a defendant has not expired and there are no reasons for the alteration for the measure of suppression, the procurator who exercise the supervision of the investigation shall extend the period of detention within one month from the date of the receipt of the criminal case by the procurator office.

14. The procedure for the calculation and extension of period of detention of defendants as established by the eighth, eleventh and twelfth parts of this Article shall also applies when a sentence is abolished as a result of processing at the supervisory authority or on newly discovered circumstances in respect of the person who serves as sentence in the form of deprivation of freedom and when the case is directed for new investigation with the application by the court of the suppression measure in the form of detention.

Article 154. Abolition or Alteration of Measures of Suppression

Measures of suppression shall be abolished when the need of it disappears or it shall be changed to stricter or more lenient when this is caused by the circumstances of a given case. The abolition or alteration of a measure of suppression shall be carried out on the basis of the motivated resolution of the inquest officer, detective, procurator or judge or on a motivated resolution of the court. In this case the measure of suppression sanctioned or applied by the procurator or selected pursuant to the procurator's written instructions as well as on the basis of a court decision in the preliminary investigation may be abolished or altered only with the consent of the procurator.

Article 155. The Right to Guardianship and Care of Property

1. Minors as well as incapable persons who as a result of detention of their parent or breadwinner as well as as a result of any other acts of the body leading the criminal procedure

remain unattended, without case or funds for existence, shall have the right to guardianship that must be ensured by said body at the expense of the funds of the republic's budget. The instruction of the body leading the criminal procedure to organise attendance, care and temporary placement of incapable persons in state bodies for social protection or a medical institution, shall be obligatory for the body of guardianship and tutelage as well as for the heads of said organisations. The body leading the criminal procedure shall also have the right to entrust the guardianship of minors and incapable persons to their relatives with the consent of the latter.

2. A person whose property became unattended as a result of arrest as well as other acts of the bodies leading the criminal procedure, shall have the right to be taken care of his property and animals he has which said body must ensure in respect of that period pursuant to his request and at his expense. Instruction of the body leading the criminal procedure to organise attendance of property of a person and animals he owns shall be obligatory for the relevant state authorities and organisations.

3. The body leading the criminal procedure shall immediately notify the person to whom detention is applied as a measure of suppression, or any other interested person on measures adopted in accordance with this Article.

Chapter 19. Other Measures of Procedural Compulsion

Article 156. Reasons for Application of Other Measures of Procedural Compulsion

1. For the purposes of insuring the procedural investigation and court trial procedures as provided for by this Code in respect of criminal cases appropriate implementation of sentences, the body leading the criminal procedure shall have the right to apply to suspects, defendants instead of measures provided for by Article 18 of this Code or together with them, other measures of procedural compulsion: obligation to arrive, forcible bringing, temporal removal from office, imposition of seizure on property.

2. In the cases provided for by this Code the body leading the criminal procedure shall have the right to apply to a victim, witness and other participants of cases the following measures of procedural compulsion: obligation to arrive, forcible bringing, pecuniary punishment.

Article 157. Obligation to Arrive to Inquest officer, or to Detective or to the Court

When there are sufficient reasons to believe that a suspect, defendant to whom no measure of suppression is applied as well as the witness or victim may evade participation in an investigative act or in trial discovery procedures, or in the case of their actual failure to arrive upon summons without sufficient reasons a written promise may be taken that they shall timely arrive when summoned by the inquest officer, detective or the court and in the case they change the place of residence they shall immediately notify them accordingly.

Article 158. Compulsory Bringing

1. In the event of failure to arrive when summoned without a sufficient reason a suspect, a defendant as well as a witness, a victim may be subjected to compulsory bringing (forcible bringing) based on motivated resolution of the inquest officer, investigator or court.

2. Disease which deprive the person from possibility to arrive, death of close relatives, natural calamities, non-receipt of supine, other reasons depriving a person from the possibility to arrive within appointed deadliness shall be recognised as sufficient reasons. A suspect, defendant as we as a witness or victim shall be obliged to notify the body which summoned them on the existence of sufficient reasons which impede their arrival on appointed deadline.

3. A resolution on compulsory bringing shall be announced to the suspect, defendant as well as witness and victim before its implementation to certify which they affix their signatures on the resolution.

4. Compulsory bringing may not be performed at night.

5. Minors in the age under fourteen and persons who have not reached eighteen years without the notification of the legitimate representatives, pregnant women as well as diseased persons who due to the condition of their health may not or must not leave the place where they are which is subject to be confirmed by their doctor, shall not be subject to compulsory bringing.

6. A court resolution on compulsory bringing shall be performed by the bailiff or the body of internal affairs; a resolution of inquest officer, detective, body leading the interrogation, preliminary investigation or a body of internal affairs.

Article 159. Temporary Removal from Office

1. The body leading the criminal procedure shall have the right to remove from office a defendant if there are sufficient reasons to believe that remaining in that capacity he shall impede investigation and discovery in respect of the case in the court, compensation of harm caused by the crime or to continue criminal activity associated with being in a given office.

2. A resolution on temporary removal of a defendant from office shall be directed to the place where he works to the head of the organisation who within three days after its receipt shall be obliged to implement the resolution and to notify of that the person or body that adopted the decision to remove from office.

3. A defendant removed from office shall have the right to monthly state benefit in an amount of not less than one minimum amount of work remuneration if he may not work in a different position or to be accepted to a different job due to circumstances beyond his control.

4. Temporary removal from office shall be abolished by a resolution of the judge or procurator as well as resolution of the investigator or inquest officer when the need of this measure seizes to exist.

Article 160. Monetary Punishment

For a failure to comply with procedural duties and violation of procedure during a court session in the cases provided for by Article 75, 82, 84, 85, 86, 145, 147 of this Code a victim, witness, specialist, translator or any other person may be subject to pecuniary punishment. The issue of imposing the pecuniary punishment shall be decided in accordance with the legislation concerning administrative violation.

Article 161. Imposition of Seizure of Property

1. For the purposes of the ensuring the implementation of a sentence in respect of a civil lawsuits or any other property punishments or potential confiscation of property the inquest officer, detective with the sanction of the procurator or the court shall have the right to impose seizure of property of a suspect, defendant or any other persons who in accordance with the law are responsible for their acts.

2. The imposition of seizure on property shall consist in an announcing it to the owner or holder of a prohibition to dispose of and where appropriate to use those assets or in the seizure of assets and their transfer into safe custody.

3. The price of property on which seizure is imposed to secure civil lawsuit filed by a civil plaintiff or procurator may not exceed the value of the lawsuit.

4. When determining a share of property which is subject to seizure in respect of each of several defendants or persons who are responsible for their acts, the degree of participation in the commission of crime as attributed to a given defendant shall be taken into account, however a seizure to secure a civil lawsuit may be imposed also on assets of one of appropriate individuals in full volume.

5. A seizure may not be imposed on assets, which are first need items the list of which is defined by legislation.

6. A motivated resolution shall be passed for imposition of seizure of property. In a resolution concerning imposition of seizure on property the assets must be indicated which are subject to seizure as it is established in the course of the procedure under the criminal case as well as the price of the assets which are sufficient to be imposed seizure on to secure a given civil lawsuit.

7. The inquest officer, detective shall hand to the owner or holder of the assets with the receipt of signature from him a resolution on imposition of seizure on property and he shall require the surrender of the assets. If this requirement is not performed voluntarily the seizure of the property shall be imposed by force. Where appropriate, when there are reasons to believe that the property is hidden by its owner or possessor, the body of the criminal prosecution may perform a search or withdrawal in accordance with the procedure provided for by Article 232 of this Code.

8. The imposition on a seizure on assets pursuant to a decision of the court that accepted the case for processing, shall be carried by the bailiff.

9. When seizure is imposed on assets a specialist may participate who performs the appraised of the value of the property.

10. The owner or possessor of assets shall have the right to make a proposal on which items the seizure should be imposed in the first place.

11. A protocol on seizure of assets performed shall be compiled by the inquest officer, and the bailiff shall make a lift of the assets.

12. Assets on which a seizure is imposed may be withdrawn or transferred at the discretion of the person who performs the seizure for safe custody to a representative of the local administration, housing and maintenance organisation, owner of that property or to any to the person who must be warned of the liability in respect of the safety of assets on which their written promise shall be taken.

13. When seizure is imposed on funds or any other valuables which are kept in accounts and deposits in banks and lending institutions, expenditure transactions in a given account shall be terminated within the limits of funds on which seizure is imposed.

14. The imposition of seizure on assets shall be abolished by a resolution of the person or the body who handles the case when such need seizes to exist.

Section 5. Property Issues in the Criminal Procedure

Chapter 20. Civil Lawsuit in the Criminal Procedure

Article 162. Civil Lawsuits Considered in the Criminal Procedure

1. Civil lawsuits of physical persons and legal entities concerning restoration of moral or property damage caused directly by crime or a publicly dangerous act of an insane person, as well as those concerning compensation of costs associated with burial, medical treatment of the victim, amounts which are paid to him as insurance indemnification, benefits or pensions as well as costs incurred in connection with the participation in the performance in the interrogation, preliminary investigation and the court including costs associated with the representation, shall be considered within the criminal procedure.

2. A criminal lawsuit shall be filed against a defendant or persons who bear material responsibility for the acts of the accused and it shall be considered in conjunction with the criminal case.

3. The plaintiff when filing a civil lawsuit in the criminal procedure shall be exempt from the payment of state duty.

4. The jurisdiction of a civil lawsuit ensuing from a criminal case shall be determined by the jurisdiction of the criminal case within which it is filed.

5. The burden of proof in respect of a civil lawsuit filed within a criminal case, shall be carried out in accordance with the rules as established by this Code.

6. When procedural relations which arise in connection with a civil lawsuit are not regulated by this Code, than the rules of the civil procedural legislation shall apply in as much as they do not contradict this Code.

Article 163. Filing a Civil Lawsuit

1. A person who incurred harm as a result of a crime or act or an insane person as provided for by the Criminal Code of the Republic of Kazakhstan, or his representative shall have the right to file a civil lawsuit at any time from the moment of the institution of the criminal case but prior to the beginning of the judiciary investigation.

2. A civil lawsuit shall be filed in writing. It shall be indicated in the lawsuit application under what criminal case who against whom and on what grounds and in what amount is filing the civil lawsuit and also the request shall be outlined to exact a specific monetary amount or assets for the compensation of losses.

3. If a need exists to specify the grounds for the civil lawsuit and the amount of the claim in the lawsuit, the person shall have the right to present an additional civil lawsuit.

4. A failure to ascertain the person who is subject to be held responsible as defendant, shall not impede the filing of a civil lawsuit under a given criminal case.

5. A person who failed to file a civil lawsuit under a criminal case as well as a person whose lawsuit is left by the court without consideration, shall have the right to file it in the procedure of civil court procedure.

6. Civil lawsuits may be filed against persons, who are not subject to arraignment as defendant because he has immunity from criminal prosecution, may be filed through the procedure of civil court procedure.

7. In the cases provided by the second part of Article 62 of this Code, a civil lawsuit in a criminal case may be filed by the procurator.

Article 164. The Recognition as Civil Plaintiff

1. If it ensues from the materials of a criminal case, that a crime or a an act of an insane person prohibited by the Criminal Code of the Republic of Kazakhstan caused harm to a citizen or a legal entity, than the inquest officer, detection, procurator or the court shall explain to them or their representatives the rights to file a civil lawsuit.

2. Physical persons or legal entities who filed a lawsuit shall be recognised as a civil plaintiff in accordance with the procedure as established by the first part of Article 77 of this Code. A person, who filed a lawsuit, his representative shall be presented with the resolution on recognition as civil plaintiff and their rights shall be explained as provided for by the fourth part of Article 77 of this Code.

Article 165. Denial of Recognition as Civil Plaintiff

When there are no grounds as provided for by Article 164 of this Code for the filing of a civil lawsuit, a given citizen or a given legal entity who filed a given lawsuit may be denied their recognition as civil plaintiff of which a motivated resolution shall be passed and the rights shall be explained to them to challenge it. A denial at a stage of pre-trial procedure under a criminal case to recognise a person as civil plaintiff shall not deprive his of the right to file a civil lawsuit in the court prior to the beginning of the court investigation.

Article 166. Compulsion to Participate in a Case as Civil Defendant

Upon identifying a person who is responsible for harm caused by a crime or an act of an insane person as prohibited by the Criminal Code of the Republic of Kazakhstan, in the case of the filing of a civil lawsuit under a given criminal case, the body leading the criminal procedure shall compel a given person as a civil defendant in accordance with the procedure established by the first part of Article 78 of this Code. The resolution on compulsion to participate as a civil defendant shall be presented to a given civil defendant or to his representative and also the rights shall be explained to them as provided for by the fourth part of Article 78 of this Code.

Article 167. Application of the Rules Concerning the Grounds, Conditions, Volume and Method for Compensation of Harm

When handling a civil lawsuit filed under a criminal case, the grounds, the conditions, the volume and method of compensation of harm shall be determined in accordance with the rules of the Civil, Labour and other branches of legislation. In the cases provided for by international treaties ratified by the Republic of Kazakhstan, the rules of international law as well as legislation of foreign states shall apply.

Article 168. Denial of the Civil Lawsuit

1. A civil plaintiff shall have the right to repudiate a civil lawsuit filed by himself.

2. An application of a civil plaintiff to repudiate a lawsuit at a stage of pre-trial procedure under a criminal case shall be filed in writing and it shall be attached to the criminal case file. When the repudiation by a civil plaintiff of a lawsuit is expressed during a court session than it shall be entered into the protocol of a given court session.

3. The repudiation of a lawsuit shall be accepted by the inquest officer, detective or procurator at any moment during the procedure of investigation in respect of a given criminal case of which a resolution shall be passed. The repudiation of a lawsuit may be accepted by the court and a resolution shall be passed at any moment of the court procedure but prior to the court's retreat in the conference room for the decreeing of a sentence.

4. The acceptance of repudiation of a lawsuit shall entail the termination of proceedings thereon.

5. Prior to the acceptance of repudiation from a lawsuit the body leading the criminal procedure shall be obliged to explain to the civil plaintiff the consequences of such repudiation, as established by the fourth part of this Article.

6. The body that leads a given criminal procedure shall not accept repudiation of civil plaintiffs from lawsuits when those acts contradict the law or violate somebody's rights and interests protected by the law, of which it shall pass a motivated resolution.

Article 169. Decisions on Civil Lawsuits

1. When sentencing and incriminating judgement or when passing a resolution on application of a compulsory measure of medical character, the court shall satisfy a civil lawsuit in full in part or it shall deny its satisfaction.

2. In cases of satisfying civil lawsuits in full or in part the court shall establish and indicate in the sentence a period for voluntary implementation of the sentence with regard to the civil lawsuit. Compulsory implementation shall be carried out in accordance with the procedure as established by legislation concerning enforcement procedures.

3. When it is impossible to perform a detailed assessment in respect of a given civil lawsuit without postponing the procedures associated with a criminal case, the court may recognise the civil plaintiff's right to satisfy the lawsuit and to pass the issue of its value to the court for its consideration through the procedure of civil court proceedings.

4. When sentencing and exculpation judgement and equally when passing a decree on the termination of a case concerning the application of a compulsory measure of medical character, the court shall:

1) deny satisfaction of a civil lawsuit, unless the event of crime is established or the event of an act prohibited by the Criminal Code of the Republic of Kazakhstan, unless the participation of the defendant or person in respect of whom the issue was decided on application of compulsory measures of medical nature, in the commission of the crime or act prohibited by the Criminal Code of the Republic of Kazakhstan is established;

2) leave the lawsuit without consideration in the case that the defendant is exculpated because of lack of composition of crime or case is terminated because of lack of grounds for the application of compulsory measures of medical character to the person who by nature of act committed by him and his condition does not represent any hazard for the society and needs no compulsory medical treatment.

5. When a case is terminated on the grounds indicated in paragraphs 3 - 5, 7, 8 of the first part of Article 37 and Article 38 of this Code, the court shall leave the civil lawsuit without consideration.

6. When on the grounds provided for in paragraph 2 of the fourth part and the fifth part of this Article, a criminal case is terminated at a stage of pre-trial procedure, the citizen or legal entity or their representatives shall have the right to file a lawsuit through the procedure of civil court proceedings.

Article 170. Supporting Civil Lawsuits

If there is evidence of causation by a crime of moral or property harm, the body of criminal prosecution shall be obliged to take steps to ensure a civil lawsuit. If such measures are not adopted, the court shall have the right prior to the entering of the sentence into the legal force, to take steps to support it.

Article 171. Implementation of a Sentence and Court Decision in Respect of Civil Lawsuits

When a court satisfies a civil lawsuit, the sentence as well as the decree on application of compulsory measures of medical character in respect of the civil lawsuit shall be implemented in accordance with the procedure provided for by legislation concerning enforcement procedures.

Chapter 21. Work Remuneration and Reimbursement of Costs Incurred in the Course of Proceedings Associated with the Criminal Cases

Article 172. Payment for Legal Assistance of Defence

1. Payment for legal assistance of defence shall be carried out in accordance with current legislation.

2. The body leading criminal procedures when there are sufficient grounds, shall have the right to release a suspect or a defendant fully or partially from payment for legal assistance. In this case payment of work remuneration of a layer shall be at the expense of funds of the republic's budget.

3. Costs associated with work remuneration of lawyers may be at the expense of the republic's budget also in the cases provided for by the third part of Article 71 of this Code when a lawyer participated in the performance of interrogation, preliminary investigation or at the court pursuant to an appointment without entering into agreement with the client.

Article 173. Work Remuneration of Translators, Specialists, Experts for Work they Performed

1. A translator, expert, specialist who performed appropriate functions in the course of criminal case procedures shall receive the following:

1) work remuneration at the place of their employment - if they perform their work in the procedure of their service assignment;

2) a fee at the expense of the republic's budget within the limits of rates as established by the Government of the Republic of Kazakhstan - when work performed is not part of their service duties or was performed at their time-off;

3) remuneration in amounts as defined by the agreement with the party - when they perform work under agreements with a given party.

2. In the case provided for by paragraph 2 of the first part of this Article, remuneration shall be paid on the basis of a resolution of the body leading the criminal procedure passed after the submission by the translator, specialist or expert of an account.

Article 174. Compensation of Costs Incurred by Persons Participating in Criminal Procedures

1. The following costs of victims, civil plaintiffs, civil defendants, their legitimate representatives, defendants and representatives of a private prosecutor who render legal assistance free of charge for a defendant and trustee, hired witness, translator, specialist, expert or witness, shall be subject to compensation at the expense of the funds of the republic's budget, as follows:

1) costs associated with arrival upon summons from the body leading the criminal procedure:

- price of travel of railway, water, automobile (except for taxi) transport and other types of transport existing in a given area and with the consent of the body leading the criminal procedure

- the price of air transport fare;

- cost of leasing residential premises at the rate adopted for the payment of service business trips provided that those costs are not compensated by the organisation which is the employer;

2) per diems when it is required from the persons to reside at the request of the body leading the criminal procedure outside of the place of their permanent residence, provided that per diems are not reimbursed by the organisation which is the employer;

3) average work remuneration for the entire time expended pursuant to the body leading the criminal procedure for the participation in the criminal procedure, except for the cases when average work remuneration is reserved by the organisation which is the employer;

4) costs associated with the restoration or purchase of assets that lost their properties or that were destroyed as the result of the participation of the person in the procedures of investigative or any other procedural acts pursuant to the requirements of the body leading the criminal procedure.

2. The state bodies and organisation shall be obliged to reserve for the victim, his legitimate representative, hired witness, translator, specialist, expert, witness their average work remuneration for the entire time expensed by them pursuant to the requirements of the body leading the criminal procedure in respect to participating in criminal procedures.

3. Specialists and experts shall also be reimbursed the cost of chemicals and other consumable materials which they had and expended when performing work entrusted to them as well as payments they incurred for the performance of work in respect of using equipment, utility services and computer time.

4. Costs incurred in respect of processing a criminal case shall be subject to reimbursement pursuant to applications of persons listed in the first part of this Article on the basis of the resolution of the body leading the criminal procedure, in amount as established by legislation. Said expenses may also be reimbursed at the expense of the party who invited the persons listed in the first part of this Article to participate in criminal acts, or in other cases as provided for by this Code. Costs provided in the paragraphs 1, 2 and 4 of the first part of this Article may be reimbursed in accordance with legislation by the body leading the criminal procedure on its own initiative.

Chapter 22. Procedural Costs

Article 175. Procedural Costs

Procedural costs shall comprise the following:

1) amounts paid to witnesses, victims and their representatives, experts, specialists, translators, hired witnesses in accordance with the procedure of Article 173, 174 of this Code;

2) amounts payable to witnesses, victims and their representatives, hired witnesses, who have no regular wages, because of their destruction of their usual occupation;

3) amounts payable to witnesses, victims and their legitimate representatives, hired witnesses whose who are employed and have steady income, to compensate for wages they have not received for the entire period of time expended by them in connection with their being summoned by the body leading the criminal procedure;

4) remuneration payable to experts, translators, specialists for their performance of their duties in the course of interrogation and preliminary investigation or at the court, except for the cases when those duties were performed in the procedure of service duties;

5) amounts payable for the rendering by defence of legal assistance in the cases when a suspect, indicted person or defendant are exempt from such payment or for the participation of a lawyer in the course of interrogation, preliminary investigation or at the court by appointment, without their entering into an agreement with the client;

6) amounts expended for storage and shipment of tangible proofs;

7) amounts expensed for performance of expert evaluations by the bodies of judicial expert evaluation;

8) amounts expended in connection with the search for a defendant who hid from investigation or the court;

9) amounts expended in connection with the compulsory bringing of a defendant to the investigator or the court in the case if he failed to arrive without a good reason as well as in connection with a postponement of judicial procedures because of the defendant's failure to arrive without a sufficient reason or his arrival to the court in the condition of an alcoholic inebriation;

10) other expenditures incurred in the course of procedures associated with a criminal case.

Article 176. Exacted Procedural Costs

1. Procedural costs may be imposed by the court on convict or may be incurred by the state.

2. The court shall have the right to exact from the convict any procedural costs, except for the amounts payable to translator as well as defence in the cases provided by the fourth and fifth parts of this Article. Procedural costs may be imposed also on a convict who is released from punishment.

3. Procedural costs associated with participation in the case of a translator shall be at the expense of the state. If a translator performed his functions in the procedure as service duty, his work remuneration shall be reimbursed by the state through the organisation at which the translator worked.

4. When a suspect or defendant filed a refusal from defence but he was not satisfied and defence participated in the case by appointment, than costs associated with work remuneration of such defence shall be at the expense of the state.

5. In the event that a defendant is exculpated or a case is terminated in accordance with paragraphs 1 and 2 of the first part of Article 37 and the second part of Article 269 of this Code, the procedural costs shall be at the expense of the state. When convict is exculpated partially, the court shall oblige his to pay procedural costs associated with the conviction on which he is pleaded guilty.

6. Procedural costs shall be incurred by the state in the case of financial insolvency of the person from whom they must be exacted. The court shall have the right to fully or partially release a convict from the payment of procedural costs if their payment may materially affect the financial status of the persons who are dependent on the convict.

7. When the court pleads guilty several defendants it shall also determine at what proportion the procedural costs may be collected from each of them. The court shall take into account in this case the nature of their guilt, degree of responsibility for the crime and financial status of the convicts.

8. In the cases of crimes committed by minors the court may impose the payment of procedural costs upon the parents of the minors or persons who are substituting for their parents.

9. When a defendant in a private prosecution case is exculpated, the court shall have the right to exact procedural costs fully or partially from the person pursuant to whose complaint the proceedings were initiated. In the case of termination of a case due to reconciliation of the parties, procedural costs shall be exacted from one or both the parties.

10. In the case of the demise of the defendant his heirs shall not be liable under the obligations associated with the procedural costs.

11. The right to exact procedural costs shall be terminated by virtue of statutes of limitation of three years from the date of the relevant court decision entering into legal force.

Special Part

Section 6. Pre-trial Proceedings Associated with Criminal Cases

Chapter 23. Institution of a Criminal Case

Article 177. Reasons and Grounds for the Institution of a Criminal Case

1. The following shall be recognised as reasons for institution of a criminal case:

1) applications of citizens;

2) confession;

3) report of an official person of the state body or person who performs managerial functions at a organisation;

4) communication in mass communications media;

5) direct discovery of evidence of crime by official persons and bodies authorised to institute criminal cases.

2. The availability of sufficient evidence indicating the symptoms of a crime when there are no circumstances, which exclude proceedings on a given criminal case, shall be the basis for the institution of a criminal case.

Article 178. Applications of Citizens

1. An application of a citizen on a crime may be verbal or written. A written application must be signed by the person from whom it emanates.

2. A verbal application on crime made in the course of performance of investigative acts or in the course of a court trial, shall be entered accordingly into the protocol of the investigative act or court session. In other cases a separate protocol shall be compiled. A protocol must contain information on the applicant, place of his residence or work, as well as documents certifying his identity. The protocol shall be signed by the applicant and the official person who accepted the application.

3. An applicant shall be warned of the criminal liability for a deliberately false report in accordance with Article 351 of the Criminal Code of the Republic of Kazakhstan of which a note shall be made in the protocol and it shall be signed by the signature of the applicant.

4. Anonymous applications may serve as reason for the institution of a criminal case only after their prior review in the cases that they contain sufficient information as indicated in the second part of Article 177 of this Code.

Article 179. Confession

1. Arrival with the confession shall be recognised as a voluntary application of a person on the crime he committed when in respect of a given person no suspicion is presented and no charges is proposed in respect of commission of a given crime.

2. Said application may be made either in writing or in verbal form and it must be submitted by the applicant to the body leading the criminal procedure. A verbal application shall be entered into the protocol in which the application so made shall be outlined in detail. Such protocol shall be signed by the person who arrived with the confession and by the official person who accepted a given application.

3. In the event that in the case of arrival with confession accessories of the crime are indicated in the application, the applicant shall be warned of the criminal liability for deliberately false reporting.

Article 180. A Report of an Official Person of a State Body of a Person who Performs Managerial Functions at an Organisation

Report of official persons of state bodies or persons who perform managerial function at an organisations on crimes must be in writing. The documents and other materials which confirm the message on reported crime must be attached to such reports.

Article 181. Reports in Mass Communications Media

1. Reports in mass communications media may serve as a reason for the institution of a criminal case when such reports are published in a newspaper or a magazine or is distributed through radio or television.

2. Persons who perform managerial functions at the mass information medium that published or promoted a message on a crime, pursuant to a person who has the right to institute a criminal case must communicate the documents and other materials available to them which confirm the message they passed, and to name the person who presented to them given information, except for the cases when that person presented those materials on the condition of keeping secret of the source of information.

Article 182. Direct Discovery of Information Concerning a Crime by Official Person or Bodies Authorised to Institute Criminal Cases

Discovery of information on crime shall serve as a reason for an institution of a criminal case in the cases where:

1) at the performance of their service duties an employer of the body of interrogation, investigator, procurator become witnesses of a crime or discover traces or consequences of a crime directly after it has been committed;

2) the body of interrogation or the inquest officer obtain information on a crime when they perform their functions or when they perform interrogations concerning another criminal cases;

3) an investigator receives information on a crime when performing investigation on another criminal case;

4) a procurator receives information on a crime when performing supervision of compliance with laws.

Article 183. The Duty to Accept and Consider Applications and Reports on Crime

1. The body of criminal prosecution shall be obliged to accept, register and consider an application or report on any crime which has been committed or which is being prepared. A documents upon registration of an application or report on a crime shall be issued to the applicant and in it the following shall be indicated: the person who accepted the application or

report, the time of its registration, the time when a decision must be adopted on the application or report.

2. Unreasonable denial to accept an application or report on a crime may be challenged at the procurator office or at the court in accordance with the procedure established by this Code.

3. An application or report on a crime received by the court, except for the cases of instituting private prosecution cases, shall be directed to the procurator of which the applicant shall be notified.

4. The court upon establishing symptoms of a crime when handling a criminal, civil or administrative case shall be obliged to communicate this information to the procurator by its private resolution.

Article 184. Periods for Considering Applications and Reports on Crimes

A decision pursuant to an application or report on a crime must be accepted not later than twenty-four hours from the date of its receipt. In appropriate cases for obtaining additional information, receiving documents and other materials, performance of inspection of a given accident scene as well as expert evaluation, this periods may be extended by the heads of the body of interrogation, the head of the investigative department up to ten days and in exceptional cases - up to one month of which the procurator must be notified within twenty-four hours.

Article 185. Decisions Adopted as a Result of Consideration of Applications or Reports on Crimes

1. In each case when an application or report on a crime is received or a report or an application is received on direct discovery of a crime, the inquest officer, the body by interrogation, the head of the investigative department, the investigator or the procurator shall adopt one of the following decisions:

1) to institute a criminal case;

2) to deny institution of a criminal case;

3) to pass the application, report in accordance with its jurisdiction, and in the cases of private prosecution - in accordance with their subordination to the appropriate court.

2. The applicant shall be informed on decision adopted and simultaneously the applicant shall be explained his right to challenge a given decision.

3. In the event that an application or a report is passed in accordance with its jurisdiction or in accordance with the subordination to a certain court, the body of interrogation, the head of the investigation department, the investigator or procurator shall be obliged to take steps to prevent or eliminate a given crime and equally to register the traces of the crime.

Article 186. The Procedure for the Institution of a Criminal Case

1. When there are reasons and grounds, as indicated in Article 177 of this Code the inquest officer, the body of interrogation, the head of the investigation department, the investigator or the procurator shall pass a resolution on the institution of a criminal case.

2. In a given resolution the following shall be indicated: time and place when it was passed, by whom it was compiled, the reasons and grounds for the institution of a given case, in respect of whom it is instituted, the Article of the Criminal Code on the symptoms of which it was instituted, as well as further direction of the court. Copy resolution on institution of a given criminal case within twenty-four hours shall be directed to the procurator. The adopted decision shall be communicated to the applicant and to the person in respect of whom a given criminal case is institutes and his rights and obligations shall be explained in connection with the beginning of the criminal prosecution.

3. If the person who suffered from the commission of a crime is known when simultaneously with an institution of a given criminal case he shall be recognised as a victim and if together with the report on a crime a civil lawsuit is filed, the person shall also be recognised as civil plaintiff.

Article 187. Denial of Institution of a Criminal Case

1. When there are no reasons to institute a criminal case, the body of criminal prosecution shall pass a resolution on denial of institution of a criminal case.

2. A copy resolution on denial of institution of a criminal case within twenty-four hours shall be directed to the procurator or applicant. In this respect the applicant must be explained the rights and the procedure for challenging the resolution.

3. A resolution of an investigator, inquest officer on denial of institution of a criminal case may be challenged appropriately by the head of the investigative department, head of the body of interrogation as well as procurator or the court is accordance with the procedure established by this Code. A court resolution on denial of acceptance of an application on private charges may be challenged at the upper court.

4. When in an application (report) received there are visible violations of political, labour, housing, family or any other rights of citizens as well as violation of legitimate interests of organisations, those which are protected in accordance with the procedure of civil court proceedings, than simultaneously with the denial to institute a criminal case the rights and obligations must be explained to interested persons as well as the procedure for their petition to the court for the restoration of the rights and interests interrupted, in accordance with the procedure of civil court proceedings.

Article 188. The Passage of an Application or Report on a Crime in Accordance with its Jurisdiction or Subordination to a Specific Court

1. An official person or a body who are authorised to institute criminal cases shall have the right to pass an application or report on a crime in accordance with the jurisdiction without instituting a criminal case only in the following cases:

1) where a crime is committed beyond the boundaries of a given district and for deciding the issue of instituting of a criminal case reviewing acts are required to be performed in the place where a given crime was committed;

2) when reviewing acts that may only be performed by a body in whose jurisdiction it is required for the deciding of the issue on institution of a given criminal case.

2. The procurator must be notified on the transfer of applications and communications concerning jurisdiction without institution of a criminal case within twenty four hours.

3. Only complaints of victims who suffered from crimes prosecuted in accordance with the procedure for private accusation shall be subject to jurisdiction without institution of a criminal case.

Article 189. Acts of the Body of Criminal Prosecution after the Institution of a Criminal Case

After the institution of a criminal case:

1) the procurator shall direct the case to the investigator or the body of inquest for the performance of preliminary investigation or inquest;

2) the investigator shall begin the procedures of preliminary investigation;

3) the body of inquest in cases in which the performance of preliminary investigation is obligatory, after the performance of immediate investigative acts shall direct the case for the performance of preliminary investigation; and in the cases of crimes indicated in Article 285 of this Code he shall perform the inquest.

Article 190. The Supervision of the Procurator in respect of Legality of Institution of Criminal Cases

When performing the supervision of legality of institution of criminal cases, the procurator shall have the following rights:

1) to abolish a resolution of the inquest officer, body of inquest, or investigator concerning the institution of a criminal case and to deny the institution of a criminal case;

2) to abolish a resolution of the inquest officer, a body of inquest, or of an investigator to deny the institution of a criminal case and to institute a criminal case;

3) to abolish the resolution of the inquest officer, the body of inquest, or investigator on institution of a criminal case and to terminate the criminal case, if the investigative acts in respect of that case have already been performed.

Chapter 24.
General Provisions Concerning the Performance of Preliminary Investigation

Article 191. The Obligatory Nature of the Preliminary Investigation

1. The preliminary investigation shall be obligatory in all the criminal cases, except for the cases concerning crimes indicated in the first part of Article 33 and Article 285 of this Code.

2. The performance of the preliminary investigation shall be obligatory in all criminal cases concerning the crimes committed by juveniles or by persons who by virtue of their physical or psychic disorders may not themselves exercise their right to defence.

3. The preliminary investigation in criminal cases shall be carried out by the investigators of the Committee of National Security, bodies of internal affairs, and the tax police.

4. The transfer of criminal cases in accordance with their jurisdiction from one agency to another shall be carried out in accordance with this Code.

Article 192. Jurisdiction

1. In respect of criminal cases of crimes provided for by Articles 156 - 163, 165 - 174, 233, 236, 238 - 240, 242 - 244, 247 - 249, 255 (the second part), 306, 311 (the third part), 318, 330 (the second part), 331 (the second part), 375, 376, and 386 of the Criminal Code of the Republic of Kazakhstan, as well as of cases associated with crimes committed by organised groups or criminal communities (criminal organisations) with the participation of persons who holds sensible governmental positions, or military servicemen, officers of the bodies of inquest, and preliminary investigation, procurators, judges, as well as in respect of cases concerning illegal circulation of drugs or contraband performed by criminal communities (criminal organisations), the preliminary investigation shall be carried out by the investigators of the Committee of the National Security.

2. In criminal cases concerning crimes provided for by Articles 96 - 103, 107 (the second part), 113, 114, 116 (the third and the fourth parts), 117 (the third and the fourth parts), 120 - 122, 125, 126 (the second and the third parts), 127, 128 (the second and the third parts), 133, 138, 141 (the second part), 142, 143, 145 (the second part), 146 - 155, 164, 175 (the second and the third parts), 176 (the second and the third parts), 177 (the second and the third parts), 178 (the second and the third parts), 179, 180, 181 (the second and the third parts), 182 (the second and the third parts), 183 (the second and the third parts), 184, 185 (the second, the third, and the fourth parts), 186 (the third part), 187 (the second and the third parts), 188 (the second part), 189, 193 - 207, 210 - 213, 215 - 220, 223 (the second part), 225 - 226, 228 - 232, 237, 241, 245, 246, 251 (the second and the third parts), 252 (the second and the third parts), 254 (the second part), 255 (the first part), 256 (the second part), 257 (the second and the third parts), 261 (the second and the third parts), 262 (the second part), 263 (the second part), 264 (the second part), 266 (the second third part), 267 - 269, 271 (the second part), 275 (the second part), 277 - 286, 287 (the second part), 288 (the second part), 289, 292 (the second part), 294, 295 (the second and the third parts), 296 (the second and the third parts), 298 (the third and the fourth parts), 299 (the second and the third parts), 300 (the second and the third parts), 301, 302 (the second part), 303 - 305, 307 (the first part), 308 (the first part), 309, 310, 312 - 316, 319 - 322, 327 (the second and the third parts), 335 - 338, 340, 349, 350, 358 (the second part), 361, 367 (the second, the third, the fourth and the fifth parts), 368 (the second and the third parts), 369 (the second and the third parts), 370 (the third part), 372 (the fourth, fifth, and the sixth parts), 373 (the second and the third parts), 374, 377 (the second part), 378 (the second part), 379 (the second part), 380 - 385, 387 (the second part), 390 (the second and the third parts), 391 (the second and the third parts), 392, 393 of the Criminal Code of the Republic of Kazakhstan, the preliminary investigation shall be carried out by investigators of the bodies of internal affairs.

3. In criminal cases concerning crimes provided for by Articles 190 (the second part), 191, 221 (the second part), 222 (the second part) of the Criminal Code of the Republic of Kazakhstan the preliminary investigation shall be carried out by the investigators of the bodies of the tax police. In cases concerning crimes provided for by
Articles 182 (the second and the third parts), 183 (the second and the third parts), 184, 163 - 195, 199, 202 - 205, 215 - 220, 223 (the second part), 224, 227 - 229, 231, 232, 307 - 310, 311 (the first, the second and the fourth parts), 312 - 316 of the Criminal Code of the Republic of Kazakhstan may be carried out also by investigators of the bodies of the tax police when the investigation is directly related to investigation of evasion from payment of taxes and a criminal case may not be separated into a separate proceeding.

4. In respect of criminal cases concerning crimes provided for by Articles 145 (the third part), 209 (the second and the third parts), 214 (the second part), 223 (the second part), 224, 227, 250 (the second and the third parts), 255 (the third and the fourth parts), 259 (the second, the third, and the fourth parts), 260, 307 (the second and the third parts), 308 (the second and the third parts), 311 (the first, the second and the fourth parts), 344 - 346, 348 of the Criminal Code of the Republic of Kazakhstan, the preliminary investigation shall be carried out by the body of internal affairs and national security that instituted a given criminal case.

5. In criminal cases concerning crimes provided for by Articles 235, 339 (the second and the third parts), 341, 343, 347, 351, 352 - 357, 363, 364, 365 of the Criminal Code of the Republic of Kazakhstan, the preliminary investigation shall be carried out by the agency in whose jurisdiction the crime is, in connection with which the criminal case was instituted.

6. Upon establishing that a given case is not in his jurisdiction, an investigator shall be obliged to perform immediate investigative acts after which to transfer the case to the procurator for directing it in accordance with the jurisdiction.

7. When cases of accusation of one or several persons of commission of crimes subordinated to different agencies of preliminary investigation are combined in one procedure, the jurisdiction shall be determined by the procurator.

Article 193. Place for Performance of Preliminary Investigation

1. The preliminary investigation shall be carried out in that district (province) where a given crime was committed.

2. For the purposes of speed and fullness preliminary investigations may be performed in places where crimes were discovered, as well as in the places where the suspect, accused, or majority of witnesses are.

3. In the cases where it is necessary to perform investigative acts in a different district (province), the investigator shall have the right to perform those personally or to entrust the performance of those acts to an investigator or an inquest agency of a given district (province). The investigator may entrust the performance of investigative acts or operative and investigative measures to the body of inquest in the place where preliminary investigation or those measures were performed. Instructions of the investigator shall be subject to performance within a period not longer than ten days.

Article 194. The Commencement of Preliminary Investigation Procedures

1. The preliminary investigation shall be carried out only after the resolution on the institution of a criminal case is passed.

2. The investigator shall be obliged to immediately begin investigation in respect of a criminal case he instituted or a criminal case that was transferred to him. The investigator shall pass a resolution on the acceptance of a case to be processed by himself. When a criminal case is instituted by an investigator or is accepted by him to be processed by himself, then a single resolution shall be compiled on institution of a criminal case and on its acceptance to be processed by himself. Copies of the above mentioned resolutions shall be directed by the investigator to the procurator not later than twenty four hours.

Article 195. Termination of a Preliminary Investigation

A preliminary investigation shall be terminated by the compilation of an indictment report or resolution on directing the criminal case to the court for the adoption of compulsory measures of medical nature, or resolution on termination of the criminal case.

Article 196. The Period of the Preliminary Investigation

1. The preliminary investigation in criminal cases must be terminated not later than within two months period from the day of the institution of a given criminal case.

2. The period of a preliminary investigation shall comprise the time from the day of the institution of the case and until the day of directing to the procurator of the case with an indictment report or a resolution on the transfer of the case to the court for the consideration of the issue of the application of compulsory medical measures or until the day when the resolution on the termination of proceedings on the criminal case is passed.

3. The period of a preliminary investigation shall not include the time during which the preliminary investigation was suspended due to grounds provided for by this Code, nor the time

of the perusal of the accused and his defence with the materials of a given criminal case, neither the time when the criminal case required pursuant to a complaint of the accused was being in the court or the procurator office.

4. The period of a preliminary investigation as established by the first part of this Article may be extended pursuant to a motivated resolution of the investigator in view of the following circumstances:

complexity of the case, by the district procurator or a procurator equated to a district procurator - up to three months;

especial complexity of a given case - by the procurator of the province and a procurator equated to the province procurator or their deputies - up to six months.

5. Further extension of the period of a preliminary investigation shall be allowed only in exceptional cases, subject to the complexity of a given case and it may be carried out by the Procurator General of the Republic of Kazakhstan, his deputies, the Military Procurator General.

6. A resolution on the extension of the period of a preliminary investigation must be presented by the investigator to the procurator of the district, province, and to procurators equated to those not later than five days, to the Procurator General, his deputies, and to the Military Procurator General - not later than ten days prior to the expiry of the period of the investigation.

7. When a case is returned for the performance of additional investigation, as well as when a terminated or suspended case is resumed, an additional investigation may be carried out within a period not longer than one month from the moment of the investigator's receipt of the case. Further extension of the period shall be on general terms in accordance with the procedure provided for by this Article.

8. Periods of processing of cases in respect of which the person who committed the act prohibited by the criminal law is not established, shall be restricted by the statute of limitation for the holding responsible in the criminal procedure.

Article 197. The Powers of the Procurator in the Course of the Preliminary Investigation

1. When performing criminal prosecution and supervision of legality when investigating criminal cases, the procurator shall:

1) have the right to participate in inspecting the place of the event, appoint expert evaluations, and to perform other acts which are required for deciding of the issue on institution of criminal cases;

2) institute criminal cases or deny the institution of such cases, issue written instructions on the performance of investigative acts;

3) transfer the criminal cases instituted by himself for the performance of preliminary investigation;

4) in the cases provided for by the law, sanction acts of officials who perform the preliminary investigation;

5) participate in the performance of certain investigative acts;

6) submit proposals to obtain approvals for holding responsible in the criminal procedure of persons who have immunity from criminal prosecution;

7) subject an accused to the court, directing to the court the criminal case received from the bodies of preliminary investigation, for its consideration in respect of its essence;

8) receive for review from the bodies of criminal prosecution criminal cases, documents, materials, and other information on crimes committed, as well as on the course of the operative and investigative activities, inquest, and investigation;

9) review the compliance with laws when applications and communications on crimes committed and being prepared are accepted, registered and decided on;

10) abolish illegal resolutions of the inquest officer of the investigator, as well as heads of the body for inquest and investigative department;

11) in cases of incompleteness of investigation and inquest, as well as when establishing violations of legality that took place in the course of investigation or inquest, return the criminal case for additional investigation or terminate it in its full volume or in respect of specific persons;

12) withdraw a criminal case from the body of inquest or transfer it to the body of preliminary investigation; in exceptional cases for the purposes of ensuring the fullness and

objectiveness of investigation, pursuant to a written petition from the body of preliminary investigation or upon his own initiative, transfer a case from one body of preliminary investigation to another, irrespective of the jurisdiction established by this Code;

13) consider complaints concerning acts and decisions of the inquest officer and investigator, heads of the bodies of inquest and investigation;

14) when discovering violation of laws during the performance of the preliminary investigation, or inquest, dismiss an investigator or inquest officer from further investigation of a given criminal case;

15) in the cases and in accordance with the procedure established by this Code, extend periods for preliminary investigation and arrest which is used as a measure of prevention;

16) review the compliance with the procedure established by laws, as well as conditions for the imprisonment of persons in respect of whom the prevention measure is the arrest;

17) exercise other powers as provided for by the law.

2. The instructions of a procurator to an investigator, head of the investigative department, body for the inquest, head of the body of inquest, and inquest officer issued in accordance with the procedure provided for by this Code, shall be obligatory, but they may be appealed to the upper procurator officer. The appeal of received instructions to the upper procurator shall not suspend their implementation.

Article 198. Performance of the Preliminary Investigation by a Group of Investigators

1. The preliminary investigation under a criminal case when it is complex or its volume is big, may be entrusted to a group of investigators (investigating group) which shall be indicated in the resolution on the institution of a given criminal case or a separate resolution shall be passed. A decision on this may be adopted by the head of the investigative department. The resolution must list all the investigators to whom the performance of investigation is entrusted, in particular the investigator who is the head of the group. A suspect, accused, victim, civil plaintiff, civil defendant, and their representatives must be familiarised with the resolution on investigation of the case by a group of investigators, and they shall be explained in respect of the right to recuse any investigator from the group.

2. The investigative group may comprise investigators from several agencies that perform a preliminary investigation. A decision to form such a group may be adopted either pursuant to instructions of the procurator or pursuant to the initiative of the heads of the investigating departments of those agencies. A decision shall be formulated by the joint resolution of the heads of the investigating departments and to be passed in compliance with the requirements indicated in the first part of this Article.

Article 199. The Powers of the Head of an Investigating Group

1. An investigator who is the head of an investigating group shall accept a criminal case for his processing, organise the work of the investigating group, and to guide the acts of other investigators.

2. A decision on merging and separating cases, terminating a given criminal case as a whole or in part, the suspension or institution of proceedings on the case, as well as on instituting petitions to extend the period of investigation, application of arrest, home arrest as measures of prevention and for their extension shall only be adopted by the head of the investigating group.

3. An indictment report or a resolution on directing a given case to the court for the consideration of the issue of application of compulsory measures of medical nature shall be compiled and signed by the head of the investigating group.

4. The head of a group of investigators shall have the right to participate in investigative acts performed by other investigators and to personally perform investigative acts.

Article 200. Activities of the Bodies of Inquest in Cases Where the Performance of Preliminary Investigation Is Mandatory

1. When there are signs of a crime for which the performance of preliminary investigation is mandatory, the body of inquest shall have the right to institute a criminal case and to perform immediate investigative acts in respect of establishing and fixing the traces of the crime; inspection, search, withdrawal, witnessing, detention, and interrogation of suspects,

interrogation of victims and witnesses. The body of inquest shall immediately notify the procurator on discovered crime and institution of criminal cases.

2. When performing immediate investigative acts by not later than five days after the institution of a criminal case the body of inquest must transfer the case to an investigator and to notify the procurator appropriately within twenty four hours.

3. After the transfer of a case to the investigator, the body of inquest may perform in respect of it the investigative acts and operative and investigative measures only in accordance with the instructions of the investigator. In the case of the transfer to an investigator of a case for which it was not possible to identify the person who committed the crime, the body of inquest shall be obliged to undertake search measures to establish the person who committed the crime and to notify the investigator on the results.

Article 201. General Rules for Performance of Investigative Acts

1. The investigator when engaging persons to participate in investigative acts as provided for by the law, shall ascertain their identity, explain to them their rights and obligations, as well as the procedure for the performance of the investigative acts.

2. The performance of a given investigative act at night shall not be allowed, except for the cases that may not be postponed.

3. When investigative acts are performed, technical facilities may be used and scientifically substantiated methods of identification, fixation and withdrawal of traces of crime or tangible proofs may be used.

4. When investigative acts are performed, it shall not be allowed to apply violence, threats, or any other illegal measures, nor to create hazards for lives and health of persons who participates therein.

5. An investigator shall have the right to engage into investigative acts workers of the body of inquest.

Article 202. Resolutions Passed in the Course of Preliminary Investigations

In the course of a preliminary investigation when a procedural decision is adopted in accordance with this Code by the investigator, a resolution shall be passed which shall indicate the place and time when it was compiled, the surname and the position of the investigator, the essence and reasons for the adopted decision, Articles of this Code on the basis of which the resolution is passed. The resolution shall be signed by the investigator.

Article 203. Protocols of Investigative Acts

1. Protocols of investigative acts shall be compiled in the course of performing investigative acts or immediately after the termination of such acts.

2. Protocols may be written by hand, typed, or typed on a computer. In order to provide for the fullness of protocols, stenography, cinematography taping, audio and video taping may be used. Stenographic protocol, materials of audio and video taping must be attached to the file.

3. The following shall be indicated in a protocol: place and date of the performance of a given investigative act; time of its beginning and ending with the precision of one minute; the position and the surname of the investigator; the surname, name and the patronymic name of each person who participated in a given investigative act, and in appropriate cases also their addresses. Procedural acts shall be outlined in protocols in the same procedure as they took place, as well as circumstances which are material for the case when they are discovered, as well as applications of the persons who participated in the performance of a given investigative act.

4. When in the performance of an investigative act photography, cinematography taping, audio or video protocols were used, or reprints were manufactured, or molds of traces, drawings, plans, drawings were made, then in the protocol also the technical facilities must be indicated which were used in their making, the condition and the procedure for their use, items mentioned for which those facilities were used, as well as results so obtained. Aside from that, the protocol must note that before the application of scientific and technological facilities the persons who participate in the performance of a given investigative act were notified appropriately.

5. A protocol shall be presented for perusal to all the persons who participate in the performance of a given investigative act. They shall also be explained the right to make comments which are subject to inclusion into the protocol. All comments, additions, corrections entered into a given protocol must be noted and certified by signatures of those persons.

6. A protocol shall be signed by the investigator, inquired person, by the translator, specialist, hired witness, and any other persons who participate in the performance of a given investigative act. In the case of a refusal to sign or when it is impossible to sign the protocol of an investigative act, the certification of a given fact shall be carried out in accordance with the eighth and tenth parts of Article 126 of this Code.

7. Photographic negatives and prints, cinematography films, slides, phonogramms, video cassettes, drawings, plans, designs, molds, and reprints of traces performed in the course of performing a given investigative act shall be attached to the protocol.

8. When in the course of performing an investigative act pursuant to the results of investigation of a specialist he compiled an official document, that document shall be attached to the protocol of which appropriate note shall be made in the protocol.

9. When there are reasons to believe that it is necessary to ensure the safety of a victim, his representative, a witness, and their relatives, the investigator shall have the right in the protocol of an investigative act in which said persons participate not to disclose information on their identity. In this case the investigator shall be obliged to pass a resolution in which the reasons for such decisions are outlined concerning the keeping secret information on the identity of persons their pen-names shall be indicated and sample signature given which shall be used by him in the protocols of investigative acts with his participation. A resolution shall be placed in a sealed envelope whose contents may only be perused by the procurator and the court, aside from the investigator himself.

Article 204. Presentation on Elimination of Circumstances Assisting the Commission of a Crime and Other Violations of Law

1. Upon establishing in the processing of a criminal case of the circumstances which assisted the commission of a given crime, the investigator shall have the right to submit to the relevant State Authorities, organisations, and persons that perform managerial functions therein, his presentation on the adoption of measures to eliminate those circumstances or other violations of the law.

2. Such presentations shall be subject to consideration with obligatory notification on measures adopted, within one month.

Article 205. Prohibition of Disclosure of Information on Preliminary Investigation and Inquest

1. Information on preliminary investigation shall not be subject to disclosure. Such information may be disclosed only with a permit from the investigator, inquest officer, procurator in a volume in which they recognise it possible, unless this contradicts the interests of investigation and violates the rights or legitimate interests of other persons.

2. The investigator shall notify defence, witnesses, the victim, civil plaintiff, civil defendant, their representatives, expert, specialist, translator, hired witnesses, and other persons who are present in the performance of investigative acts on the prohibition to disclose without his permit information which is available under the case on which he shall take promissory notes from said persons and they shall be warned of responsibility.

Chapter 25
The Recognition of a Person As Accused

Article 206. Holding Accused

1. When there is sufficient evidence giving reasons for presenting accusations of commission of a crime, the investigator shall pass a motivated resolution on holding a person as accused.

2. The investigator shall notify the accused of the day when the accusation will be presented and he shall simultaneously explain to him the right to invite defence or to petition to the investigator to provide for the participation of defence.

3. In cases under which in accordance with the rules of this Code the participation of defence in the presentation of accusation is obligatory, the investigator shall take steps to provide for the arrival of such defence, and if defence is not invited by the accused himself, by his legitimate representative, or any other persons, in accordance with his instructions or with his consent.

[…]

Chapter 55. Fundamental Provisions concerning the Interaction of the Authorities Leading the Criminal Procedure with the Competent Institutions and Official Persons of Foreign States in Criminal Cases

Article 521. The Procedural and Other Acts Which Are Carried Out In the Procedure of Rendering Legal Assistance

1. In order to render legal assistance to bodies of investigation and courts of the foreign states with which the Republic of Kazakhstan concluded an international agreement on legal assistance, or on the principle of reciprocity, procedural acts may be carried out as provided by this Code, as well as other acts specified in other laws and international treaties of the Republic of Kazakhstan.
2. In the event that provisions of the international treaty ratified by the Republic of Kazakhstan contradict this Code, the provisions of the international treaty shall apply.
3. Expenditures connected with rendering of legal assistance shall be incurred by the requesting institution in the territory of its state, unless it is otherwise specified by the international treaty of the Republic of Kazakhstan.

Article 522. The Validity of Procedural Documents

The procedural documents compiled in the territory the state indicated in the first part of Article 521 of this Code in accordance with the legislation current in its territory and certified with the state seal shall be accepted as procedural documents without any restriction, unless it is otherwise provided for by the international treaty of the Republic of Kazakhstan.

Article 523. The Procedure for Interaction in Issues of Rendering Legal Assistance

1. The instruction for the performance of an investigative act shall be directed through the Procurator General of the Republic of Kazakhstan, and in the case of a court act - through the Minister of Justice of the Republic of Kazakhstan, or accordingly their deputies, or through authorised officials who in appropriate cases shall resort to mediatorship of the Ministry of Foreign Affairs of the Republic of Kazakhstan.
2. When formulating the instruction one shall use the language of the foreign state to which it is directed, unless it is otherwise specified in the international treaty of the Republic of Kazakhstan.
3. The court, procurator, investigator, inquest officer shall compile the instruction for rendering of legal assistance associated with performance of procedural and other acts in the territory of the other state in writing, on appropriate official paper, sign and certify it with the state seal of the body that carries out the criminal procedure.
4. The instruction on rendering of legal assistance pursuant to a motivated petition of the appropriate procurator, court shall be passed accordingly to the Procurator General, Minister of Justice of the Republic of Kazakhstan or authorised procurator.
5. The Procurator General of the Republic of Kazakhstan, Minister of Justice shall decide the issue of passing the instruction for rendering of legal assistance to the competent institution of the other state.
6. The procedure for rendering legal assistance in issues of extradition and criminal prosecution shall be determined by Articles 527, 529 of this Code.

Article 524. The Contents of the Request Concerning the Performance of Procedural Acts

1. A request concerning the performance of investigative and court-related acts must be compiled in writing, signed by the official person who is sending the requests, certified with the state seal of the institution and contain the following:
1) the name of the authority from which the requests originate;

2) the name and address of the authority to which the request is directed;
3) the name of the case and nature of the request;
4) information concerning the persons for whom the request is being made, their citizenship, type of business, place of residence or abode, in the case of legal entities - their business name and address;
5) presentation of the circumstances to be clarified, as well as the list of the documents so requested, material evidence and other evidence;
6) information on actual circumstances of the committed crime and its qualification, where needed - information on the size of the damage caused by the act;
7) other information needed for the implementation of the request.
2. The contents of the claims of extradition and institution of a criminal prosecution shall be determined by Articles 529, 530 of this Code.

Article 525. The Procedure for the Implementation of a Request for the Performance of Procedural Acts

1. The court, procurator, investigator, inquest authority shall implement the instructions passed to them in accordance with the established procedure from the relevant institutions and officials of foreign states concerning the performance of investigative or judicial acts in accordance with the general rules of this Code.
2. Procedural rules of the foreign state may be used when performing a request, if that is provided for by the international treaty of the Republic of Kazakhstan with that state.
3. When implementing a request one shall use the state language of the Republic of Kazakhstan or the Russian language.
4. With a permit from the official indicated in the first part of Article 523 of this Code, in the cases provided for by the international treaty, a representative of the competent institution of the other state may be present during the implementation of a request.
5. If a request may not be implemented, the received documents shall be returned accordingly through the General Procurator Office of the Republic of Kazakhstan or Ministry of Justice of the Republic of Kazakhstan to the foreign institution from which the request originated with indication of the reasons that impeded its implementation. A request shall be returned in any case if its implementation may cause harm to the sovereignty or security, or contradicts the legislation of the Republic of Kazakhstan.

Article 526. The Summon and Interrogation of the Witness, Victim, Civil Plaintiff, Civil Defendant, Their Representatives, the Expert

1. The witness, victim, civil plaintiff, civil defendant, their representatives, expert if they are citizens of a foreign state may be summoned with their consent for the performance of investigative or judicial acts in the territory of the Republic of Kazakhstan by appropriate official person who is handling the criminal case.
2. A request to a person to appear shall be directed in accordance with the procedure specified in the second part of Article 523 of this Code.
3. The performance of investigative and judicial acts with the participation of a witness, victim other participants of the process indicated in the first part of this Article, shall be carried out in accordance with the rules of this Code with the following exceptions: bringing by force, fine as well as holding responsible in accordance with the criminal procedure for refusal or evasion of testimony and for deliberate perjury or deliberately false conclusion shall not be allowed. They may not be held responsible in the territory of the Republic of Kazakhstan through the criminal and administrative procedure, imprisoned and subjected to punishment for the acts committed prior to the crossing of the state frontier. Also, such persons may not be held responsible, imprisoned or subjected to punishment in connection with their witness testimony or conclusions as experts in connection with the criminal case which is subject-matter of the trial.
4. If the subpoenaed person indicated in the first part of this Article has been held responsible through the criminal procedure or sentenced for another crime in the territory of the requested state, he, irrespective of his citizenship, may be extradited for a time.
5. The persons indicated in the first part of this Article shall lose the guarantees specified in the fourth part of this Article, if they fail to leave the territory of the Republic of Kazakhstan, although they have such opportunity, prior to expiry of fifteen days from the day when the body leading the criminal procedure communicates to them that their further presence is not

required. That period shall not include the time during which those persons could not leave the territory of the Republic of Kazakhstan for no fault of theirs.

Article 527. The Direction of Materials of a Case for Continuation of Criminal Prosecution

In the event of commission of a crime in the territory of the Republic of Kazakhstan by a foreigner who exited the boundaries of the Republic of Kazakhstan, the body that is carrying out the criminal proceedings shall pass a motivated resolution on suspension of proceedings in the case, in accordance with the procedure specified by Articles 50, 265 and 304 of this Code, as well as a resolution on transfer of criminal cases in accordance with their subordination with regard to the investigation authority and the court, in accordance with the procedure specified in Articles 192, 306 of this Code. The materials of the case shall be directed to the Procurator General of the Republic of Kazakhstan or authorised procurator with a petition to carry out criminal prosecution for deciding the issue of directing the case to the other state in accordance with the international agreement.

Article 528. The Performance of Requests on Continuation of Criminal Prosecution or on Institution of a Criminal Case

1. A petition of appropriate institution of a foreign state on the transfer for further investigation of a criminal case against a citizen of the Republic of Kazakhstan who committed a crime in the territory of the foreign states and returned to the Republic of Kazakhstan, shall be considered by the General Procurator of the Republic of Kazakhstan or the authorised procurator. The preliminary investigation and court investigation in such cases shall be carried out in accordance with the procedure specified by this Code.
2. If the investigation continues in the Republic of Kazakhstan, the evidence obtained in the course of investigation of the case in the territory of a foreign state by the body or official person appropriately authorised for that, within the bounds of their authority and in accordance with the established proforma, shall have legal validity equal to other evidence collected on the case.
3. In the case of commission in the territory of a foreign state of a crime by a citizen of the Republic of Kazakhstan who then returned to the Republic of Kazakhstan prior to the institution of a criminal prosecution against him, the criminal case may be instituted and investigated by the bodies of preliminary investigation of the Republic of Kazakhstan on the basis of the materials of that case as presented by the institution of the foreign state to the General Procurator Office of the Republic of Kazakhstan.
4. The body leading the criminal proceedings shall be obliged to notify the Procurator General of the Republic of Kazakhstan or authorised procurator on the final decision taken on the case, and to send a copy of that decision.

Article 529. Direction of A Claim For Extradition of a Person For Holding Responsible through the Criminal Procedure or Execution of Sentence

1. In the event and in accordance with the procedure specified by the legislation of the Republic of Kazakhstan and international treaties, the Procurator General of the Republic of Kazakhstan or the authorised procurator shall address the competent authority of the foreign state with the claim to extradite the person who is a citizen of the Republic of Kazakhstan that committed a crime, if against that person an accusatory sentence or resolution on holding him as accused has been adopted.
2. In the case and in accordance with the procedure specified in international treaties and legislation of the Republic of Kazakhstan, the body leading the criminal procedure shall petition for the extradition of the person who committed a crime in the territory of the Republic of Kazakhstan and left its territory, to the Procurator General of the Republic of Kazakhstan or authorised procurator with attachment to it of appropriate documents.
3. The claim of extradition must contain the following:
1) the name of the authority who is handling the criminal case;
2) surname, name, patronymic of the convict (accused), year of birth, citizenship, description of appearances, photographs;
3) presentation of actual circumstances of the committed crime with presentation of the text of the law providing the liability for that crime, with obligatory indication of the sanction;

4) information on place and time of passing the sentence which entered into legal force, or resolution on holding as accused with attachment of certified copies of appropriate documents.
4. The following must be attached to the petition for extradition: copy resolution on bringing charges, copy resolution on imprisonment, documents to confirm the citizenship of the person to be extradited, the conclusion of the relevant procurator on legality and motivation of the petition for extradition.

Article 530. The Limits of the Criminal Liability of the Extradited Person

1. A person extradited by a foreign state may not be held responsible through the criminal procedure, subjected to punishment, as well as extradited to a third state for another crime not connected with the extradition, without approval of the state that has extradited him.
2. The rule of the first part of this Article shall not apply to the cases of commission of crime by a person after his extradition.

Article 531. The Execution of a Claim for Extradition of a Citizen of a Foreign State

1. The claim for extradition of a citizen of a foreign state, who is accused of commission of a crime or sentenced in the territory of a foreign states, shall be considered by the Procurator General of the Republic of Kazakhstan or by the authorised procurator whose instructions are the basis for the execution of the extradition. When there are claims of several states for extradition of a person, the decision on to which state the person is to be extradited shall be taken by the Procurator General of the Republic of Kazakhstan.
2. The terms and the procedure for extradition shall be determined by this Code and international treaty of the Republic of Kazakhstan with the foreign state.
3. In the event that the citizen of a foreign state for whose extradition a request was received, is enduring punishment for another crime in the territory of the Republic of Kazakhstan, the extradition may be postponed until the end of enduring punishment or release from punishment for any other legitimate reason. In the event that a citizen of a foreign state is held responsible through the criminal procedure, his extradition may be postponed until the sentence have been resolved, punishment have been endured or the person has been released from criminal liability of punishment for any reason.
If postponement of extradition may entail the expiration of the statute of limitations for the criminal prosecution or cause harm to the investigation of a crime, the person whose extradition is required in accordance with the petition, may be extradited for a time as determined by the agreement of the parties.
4. The person who has been extradited for a period of time, must be returned after the commission of procedural acts on the criminal case, for which he was extradited, but not later than three months after the day of transfer of the person. Upon mutual agreement that time may be extended, but for not more than the period of the punishment for which the person was sentenced or for which in accordance with the law the person may be sentenced for a crime committed in the territory of the Republic of Kazakhstan.
5. The administration of the place of custody after the receipt of instructions on extradition from the General Procurator of the Republic of Kazakhstan or authorised procurator shall be obliged to organise the transit and handing over of the extradited person to the relevant body of that state to which he has been extradited, and to notify the Procurator General of the Republic of Kazakhstan of authorised procurator appropriately.

Article 532. The Denial of Extradition

1. Extradition shall not be allowed in the following cases:
1) if the Republic of Kazakhstan grants political asylum to the person;
2) if the act that served as the basis for the extradition claim is not recognised as crime in the Republic of Kazakhstan;
3) if a sentence which entered into legal force for the same crime has already been issued against that person, or proceedings on the case have been terminated;
4) if pursuant to the legislation of the Republic of Kazakhstan the criminal case may not be instituted nor sentence may be executed because the statute of limitations expired or for any other legitimate reason.
2. Extradition may be denied if the crime in connection with which the extradition claim was

filed, was committed in the territory of the Republic of Kazakhstan or beyond its boundaries, but aimed against the interests of the Republic of Kazakhstan.

Article 533. The Continuation of the Criminal Prosecution of Stateless Persons, Citizens of a Third Country and Their Extradition

1. The procedure for directing materials for continuation of criminal prosecution and implementation of requests on continuation of criminal prosecution or on institution of a criminal case against stateless persons, citizens of a third country shall be determined by the rules of Article 527, 528 of this Code.
2. The procedure for extradition of stateless persons, citizens of a third country shall be determined by the rules of Articles 529, 530, 531, 532 of this Code.

Article 534. The Extradition Arrest (Detention and Imprisonment for Extradition)

1. In the case of receiving from a competent institution of a foreign state of appropriately formulated claim and provided there are legitimate reasons for the extradition of a person, that person may be detained and the suppression measure in the form of the extradition arrest may be applied to him.
Pursuant to the petition of the requesting state the person may be arrested prior to receipt of the extradition claim. The petition must contain the reference to the resolution on imprisonment or to the sentence that entered into legal force and an indication that the extradition claim will be presented additionally. A petition for imprisonment prior to the filing of the extradition claim may be transmitted by mail, telegraph, telex or fax. After examining the presented materials and if sufficient reasons exist to believe that the detained person is the person for whom the search was announced, and if there are no reasons presented in Article 532 of this Code, the procurator shall pass a resolution on extradition arrest of which the arrested person shall be notified under receipt of his signature. The procurator shall immediately direct the notice of the extradition arrest performed by him to the General Procurator of the Republic of Kazakhstan or authorised procurator and indicate the state of which the arrested person is a citizen and the name of the body that announced the search.
2. A person may be detained for up to three days even without the petition provided for in the first part of this Article, if there are reasons provided for by the law to suspect that that person committed the crime in the territory of the other state, that entails extradition.
3. The institution of the foreign state which directed or may direct an extradition claim, petition for arrest, with the proposal of the time and place for the extradition, shall be immediately notified of imprisonment of the person.
4. If within thirty days extradition have not taken place, the person in custody shall be subject to release pursuant to the resolution of the procurator. A person detained in accordance with the second part of this Article must be released if the claim of his extradition has not been received within the period specified by the legislation of the Republic of Kazakhstan for detention. A repeated imprisonment shall be allowed only after considering a new extradition claim in accordance with the first part of this Article.
5. The extradition arrest of a person detained in accordance with Article 531 of this Code shall be carried out by the procurator for a period up to one month.
6. If no extradition petition is received during that period from a competent institution of the state that announced search, but there is the petition for imprisonment and the guarantee of subsequent direction of the extradition petition, the period of the extradition arrest pursuant to the petition of the procurator who carried out the arrest may be extended by the procurator of the province or a procurator who is equated to that, for up to two months, of which the General Procurator of the Republic of Kazakhstan or authorised procurator shall be notified.
7. In exceptional cases, when there are conditions indicated in the second part of this Article, the period of the extradition arrest pursuant to the petition of the province procurator or a procurator equated to that, may be extended by the General Procurator of the Republic of Kazakhstan or authorised procurator up to three months.
8. The administration of the place of imprisonment not later than seven days prior to the expiry of the period in custody of the arrested person shall be obliged to notify the procurator who carried out the extradition arrest, accordingly.
9. Release of the arrested person for extradition shall be carried out on the basis of the resolution of the procurator who carried out the extradition arrest, in particular upon expiry of

the periods indicated in this Article, if no extradition took place within that period, of which the Procurator General of the Republic of Kazakhstan of the authorised procurator shall be notified immediately.

Article 535. The Transit Transportation

1. The petition of a foreign state authority for transit transportation through the territory of the Republic of Kazakhstan of a person extradited to that authority by a third state, shall be considered in accordance with the same procedure as the extradition claim.
2. The method of transit transportation shall be determined by the Procurator General of the Republic of Kazakhstan in coordination with appropriate departments.

Article 536. The Transfer of Objects

1. When a person is extradited to a foreign state authority, the objects which are tools of the crime shall be handed over as well as the objects which have traces of crime or obtained in a criminal manner.
Those objects shall be handed over pursuant to the request even in the event that the extradition of the person due to his death or for other reasons may not take place.
2. The objects indicated in the first part of this Article may be detained for a period of time if they are needed for the proceedings on another criminal case.
3. In order to ensure the legitimate rights of third parties, the transfer of the objects indicated in the first part of this Article shall be carried out only if there are guarantees of the foreign state authority of return of the objects upon the end of proceedings on the case.

Chapter 56. Extradition of a Person Sentenced to Deprivation of Freedom for Enduring Punishment in the Country of which He Is a Citizen

Article 537. The Reasons for Handing Over a Person Sentenced to Deprivation of Freedom for Enduring Punishment in the State of Which He Is A Citizen

The international treaty of the Republic of Kazakhstan with the relevant foreign state or a written agreement on the terms of reciprocity of the Procurator General of the Republic of Kazakhstan with the competent authorities and official persons of the foreign state shall be the basis for handing over a person sentenced by a court of the Republic of Kazakhstan to deprivation of freedom, for endurance of punishment in the state of which he is a citizen, and equally for handing over a citizen of the Republic of Kazakhstan sentenced by a foreign state court to deprivation of freedom for endurance of punishment in the Republic of Kazakhstan.

Article 538. The Terms and Procedure for Handing Over a Convict for Endurance of Punishment in the State of Which He Is A Citizen

1. The handing over of a person sentenced in the Republic of Kazakhstan for enduring punishment in the state of which he is a citizen, shall be allowed prior to his endurance of punishment in the form of deprivation of freedom pursuant to the petition of the convict, legitimate representative or close relatives of the convict, as well as pursuant to the request of the competent authority of the relevant state with the consent of the convict.
2. The handing over of the persons indicated in the first part of this Article may be carried out only after the entry of the sentence into legal force pursuant to the decision of the Procurator General of the Republic of Kazakhstan or his deputy, who shall inform the court that passed the sentence on the hand-over that has taken place.

Article 539. The Denial of Hand-Over of A Person Sentenced to Deprivation of Freedom to A Foreign States for Endurance of Punishment

Handing over of a person sentenced to deprivation of freedom by a court of the Republic of Kazakhstan for endurance of punishment in the state of which he is a citizen may be denied in the following cases:
1) if none of the acts for which the person has been sentenced is recognised as a crime pursuant to the legislation of the state of which the convict is a citizen;
2) if the punishment may not be executed in the foreign state due to expiry of the statute of limitations or for another reason provided for by the legislation of that state;
3) if no guarantee has been received from the convict nor foreign state that the sentence will

be executed with regard to the civil claim;
4) if no consensus has been reached on the hand-over of the convict on the terms provided for by the international treaty;
5) if the convict has permanent place of residence in the Republic of Kazakhstan.

Article 540. The Consideration of a Petition for Acceptance of A Citizen of the Republic of Kazakhstan for Endurance of Punishment

1. A citizen of the Republic of Kazakhstan sentenced to deprivation of freedom by a court of a foreign state, his legitimate representative or close relatives as well as the competent authorities of the foreign state with the consent of the convict may petition to the Procurator General of the Republic of Kazakhstan with a petition for the convict enduring punishment in the Republic of Kazakhstan.
2. In the case of satisfaction of the petition the Procurator General of the Republic of Kazakhstan shall submit a resolution on the execution of the foreign state court sentence to the province court or a court equated to the province court in the place of permanent place of residence of the convict prior to the departure from the Republic of Kazakhstan. And if the convict has not permanent place of residence, the proposal shall be submitted to the Supreme Court of the Republic of Kazakhstan.

Article 541. The Procedure for the Settlement by the Court of the Issues Associated With the Execution of a Foreign State Court Sentence

1. The presentation of the Procurator General of the Republic of Kazakhstan shall be considered by the judge in the court session in the absence of the convict in accordance with the procedure and within the period established by this Code for the settlement of the issues associated with the execution of the sentence.
2. The following must be indicated in the resolution of the judge on execution of a foreign state court sentence:
1) the name of the foreign state court sentence, time and place of resolution of the sentence;
2) the information on the last place of residence of the convict in the Republic of Kazakhstan, place of work, and type of occupation prior to the conviction;
3) qualification of the crime for the commission of which the citizen is recognised as guilty and on the basis of what criminal law he was sentenced;
4) the criminal law of the Republic of Kazakhstan that provides the liability for the crime committed by the convict;
5) the type and term of punishment (the principle and additional), the date of beginning and end of the punishment that must be endured by the convict in the Republic of Kazakhstan; the type of the criminal penal institution, procedure for compensation of losses pursuant to the claim.
3. If the maximum period of deprivation of freedom pursuant to the law of the Republic of Kazakhstan for a given crime is less than that prescribed pursuant to the sentence of a foreign state court, the judge shall determine the maximum period of deprivation of freedom for the commission of a given act as provided for by the Criminal Code of the Republic of Kazakhstan. If deprivation of freedom has not been provided for as punishment, the judge shall determine punishment within the limits of that established by the Criminal Code of the Republic of Kazakhstan for a given crime and which is most consistent with that prescribed by the foreign state court sentence.
4. If a sentence pertains to two or several acts not all of which are recognised as crimes in the Republic of Kazakhstan, the judge shall determine what part of the punishment prescribed pursuant to the foreign state court sentence, shall apply to the act which is recognised as crime.
5. The resolution of the judge shall enter into force from the time when it has been passed and it shall be directed to the Office of the Procurator General of the Republic of Kazakhstan for ensuring its execution.
6. In the case of abolition or alteration of a foreign state court sentence, or application of an act of amnesty or pardon issued by the foreign state for the person who is enduring punishment in the Republic of Kazakhstan, the issues associated with the execution of the revised sentence, as well as of application of the amnesty or pardon shall be resolved in accordance with the rules of this Article.