THE CRIMINAL PROCEDURE CODE
OF THE REPUBLIC OF MOLDOVA

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LAW
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Remark: In the text of this Code the words "Customs Department" shall be replaced by the words "Customs Service" pursuant to Law No. 289-XVI dated 11.11.05, in force as of 09.12.05

Parliament adopts this Code.

GENERAL PART

Title I
GENERAL PROVISIONS ON CRIMINAL PROCEEDINGS

Chapter I
GENERAL PROVISIONS

Article 1. Notion and Purpose of Criminal Proceedings

(1) Criminal proceedings consist of the activities of criminal investigative bodies and the courts, in which parties in criminal cases and other individuals participate and that are conducted in line with the provisions of this Code.

(2) The purpose of a criminal proceeding is to protect individuals, society and the state from crime and to protect individuals and society from illegal acts of officials in the course of investigating crimes either alleged or committed so that any person who has committed a crime is punished to the extent of his/her guilt and no innocent person is subject to criminal liability and convicted.

(3) In the course of proceedings, criminal investigative bodies and the courts shall act in a manner such that no one is unjustifiably suspected, accused or convicted and no one is arbitrarily or unnecessarily subjected to coercive procedural measures.

Article 2. Criminal Procedural Law

(1) Criminal proceedings are regulated by the provisions of the Constitution of the Republic of Moldova, international treaties to which the Republic of Moldova is a party and this Code.

(2) The general principles and norms of international law and the international treaties to which the Republic of Moldova is a party constitute integral elements of criminal procedural law and directly generate human rights and freedoms during criminal proceedings.

(3) The Constitution of the Republic of Moldova is the supreme law and prevails over national criminal procedural legislation. No law regulating criminal proceedings has legal force if it conflicts with the Constitution.

(4) Legal norms of a procedural nature contained in other national laws may be applied only if they are included in this Code.

(5) In the course of criminal proceedings, laws and other regulations that cancel or limit human rights and freedoms, that violate the independence of justice or the principle of the adversarial nature of criminal proceedings or that contradict unanimously recognized norms of international law or the provisions of the international treaties to which the Republic of Moldova is a party shall not have legal force.

Article 3. Action in Time of Criminal Procedural Law

(1) In the course of criminal proceedings, the laws in force during the criminal investigation or the trial of the case in court shall be applied.

(2) Criminal procedural law may be proactive meaning that its provisions during a transition to a new law may be applied to procedural actions regulated by the new law. This proactive effect shall be stipulated in the new law.

Article 4. Action in Space of Criminal Procedural Law

(1) Criminal procedural law covers the entire Republic of Moldova and is compulsory for all criminal investigative bodies and the courts irrespective of the place where the crime was committed.

(2) Other aspects of criminal procedural law may be set by international treaties to which the Republic of Moldova is a party.

Article 5. Application of Criminal Procedural Law to Foreign and Stateless Citizens

(1) In the territory of the Republic of Moldova, criminal case proceedings involving foreign and stateless citizens shall be conducted in line with this Code.

(2) Criminal proceedings involving persons availing themselves of diplomatic immunity shall be applied in line with the Vienna Convention on Diplomatic Relations dated April 18, 1961, the Vienna Convention on Consular Relations dated April 24, 1963 and with other international treaties to which the Republic of Moldova is a party.
[Art.5 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 6. Terms and Expressions Used in this Code

The terms and expressions used in this Code shall mean the following unless they have a special meaning:

1) procedural act – a document reflecting any procedural action set forth in this Code, in particular an order, a transcript, an indictment, a ruling, a sentence, a decision, a judgment etc.;

1^1) establishing act – a document in which the official examiner describes any action preceding the criminal investigation determining and confirming reasonable suspicions about the commission of a crime;

2) agent authorized to serve a summons – employee of the police, local public administration or court and any other person authorized by a criminal investigative body or by the court to serve a summons in line with this Code;

3) defense – the procedures conducted by the defense in order to eliminate, in whole or in part, the criminal charges or to mitigate the punishment, to protect the rights and interests of the persons suspected or accused of the commission of a crime or to rehabilitate persons illegally subjected to criminal investigations;

4) arrest – a preventive measure applied based on a court judgment and in line with the law;

5) criminal case – a criminal proceeding conducted by a criminal investigative body and by the court for a specific case regarding one or several crimes either committed or allegedly committed;

6) urgent case – one in which there is a real danger that evidence will be lost, that the suspect or accused will hide in a suspected place or that other crimes will be committed;

7) ordinary means of appeal – a remedy provided by law to appeal court judgments that are not final (appeal) or, as the case may be, irrevocable judgments (cassation);

8) extraordinary means of appeal – a remedy provided by law to appeal irrevocable court judgments (review, cassation for annulment);

9) decision – a decision that the court pronounces on appeal, cassation, cassation for annulment or a ruling of a court of appeals or cassation issued upon rehearing a case;

10) flagrant crime – a crime discovered at the moment it is committed or prior to the consummation of its effects;

11) domicile – a house or a building designed for permanent or temporary habitation by one or several persons (house, apartment, villa, hotel room, cabin on a sea or river vessel) as well as premises directly attached thereto as an indivisible part (verandah, terrace, attic,

balcony, cellar, other places of common use). The notion of domicile within the context of this Code shall also mean any private land, car, sea and river vessel or office;

12) expert – a person with extensive knowledge in a specific area duly authorized by law to offer his/her expertise;

13) court judgment – the judgment of the court issued in a criminal case: sentence, decision, ruling, and judgment;

14) decision of the Plenum of the Supreme Court of Justice – an act adopted by the Plenum of the Supreme Court of Justice settling issues related to its competence;

15) crime committed during a hearing – a criminal act committed during the hearing of a case;

16) court – any court or part of the judicial system of the Republic of Moldova that hears criminal cases in the first instance, on appeal or cassation or on an extraordinary means of appeal and that settles complaints against actions and acts of criminal investigative bodies and of agencies enforcing court judgments and sanctions the application of certain procedural actions;

17) court of appeals – a court hearing appeal requests filed against sentences that are not final (courts of appeals);

18) court of cassation – a court hearing requests for cassation filed against court judgments issued in line with this Code;

19) interpreter – a person invited to a criminal proceeding by competent agencies who translates orally from one language to another or who translates sign language thus intermediating communication between two or several persons;

20) undercover investigator – an official confidentially conducting an operative investigation or any other person confidentially cooperating with criminal investigative bodies;

21) ruling – a resolution issued by a court prior to a sentence or decision;

22) hearing a case in the first instance – settling a criminal case on the merits by issuing a sentence as a result of a direct examination of the evidence by a competent court with the participation of the parties in the case;

23) judge – a graduate lawyer appointed in the manner duly set forth by law and authorized to hear cases brought before the court;

24) investigative judge – a judge vested with duties specific to criminal investigations and to judicial control over procedural actions conducted in the course of criminal investigations;

25) materials – prepared documents and objects important for establishing the circumstances in a criminal case and attached to the criminal case file;

26) protective measures – measures undertaken by the court with regard to persons or goods in terms of applying preventive measures, security measures or criminal punishment;

27) sources of evidence – sources provided by procedural law by which evidence is managed in a criminal case;

28) order – a resolution of a criminal investigative body issued during a criminal proceeding;

29) party – a person who in the course of a criminal proceeding exercises prosecution or defense duties based on equality of rights and the principle of the adversarial nature of a criminal proceeding;

30) defense party – a person duly authorized by law to exercise defense activities on behalf of the suspect/accused/defendant, civilly liable party, and representatives thereof;

31) prosecution party – a person authorized by law to exercise or to request a criminal investigation (prosecutor, criminal investigative body, injured party, civil party, and representatives thereof);

32) damage – moral, physical or material damage that can be assessed in monetary terms;

33) evidence – actual data obtained in the manner duly set forth in this Code and used to establish the circumstances important for a just settlement of a criminal case;

34) pertinent evidence – evidence related to a criminal case;

35) conclusive evidence – pertinent evidence influencing the settlement of a criminal case;

36) useful evidence – conclusive evidence that due to the information it contains is necessary for the settlement of a case;

37) prosecutor – an official appointed in the manner duly established by law to manage or to conduct criminal investigations and to represent the prosecution in court in the name of the state (Prosecutor General and subordinate prosecutors in line with the Law on the Public Prosecutor's Office);

38) representative – a person authorized, in line with the law, to represent the interests of the injured party, civil party or civilly liable party;

39) legal representatives – parents, adoptive parents, tutors, trustees or the spouse of the suspect/accused/defendant, convicted person and injured party, as well as the representatives of the institutions supervising them;

40) detention – a measure undertaken by a competent body to deprive a person of liberty for up to 72 hours;

41) close relatives – children, parents, adoptive parents, adopted children, brothers and sisters, grandparents, grandchildren;

42) sentence – a court judgment settling a criminal case on the merits;

43) specialist – a person with solid knowledge of a subject or of a specific problem involved in a criminal proceeding who can contribute to finding the truth in the manner duly set out in the law;

44) fundamental violation in a previous proceeding that affected the judgment issued – an essential violation of the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, other international treaties, the Constitution of the Republic of Moldova and other national laws;

45) conventional unit – a conventional unit of a fine set in the Criminal Code;

46) adult – a person who has reached the age of 18;

47) juvenile – a person who has not reached the age of 18;

48) translator – a person translating a text in writing from one language into another;

49) nighttime – a period of time between 10:00 pm and 6:00 am;

50) daytime – a period of time between 6.00 am and 10.00 pm.

[Art.6 completed by Law No. 256-XVI dated 29.11.2007, in force as of 28.12.2007]
[Art.6 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter II
GENERAL PRINCIPLES OF CRIMINAL PROCEDURES

Article 7. Legality of Criminal Procedures

(1) Criminal procedures shall be conducted in strict compliance with the unanimously recognized principles and norms of international law, international treaties to which the Republic of Moldova is a party, provisions of the Constitution of the Republic of Moldova and the provisions of this Code.

(2) Should there be a disagreement between the provisions of this Code and the international treaties on human rights and fundamental freedoms to which the Republic of Moldova is a party, the provisions of the international regulations shall prevail.

(3) If during the hearing of a case the court ascertains that the legal norm to be applied contradicts the provisions of the Constitution and is part of a legal act that may be subject to a ruling on its constitutionality, the hearing shall be suspended and the Supreme Court of Justice shall be notified and shall further inform the Constitutional Court.

(4) If during the hearing of a case, the court ascertains that the legal norm to be applied contradicts legal provisions but is part of a legal act that may not be subject to a ruling on its constitutionality, the court shall apply the law directly.

(5) If during the hearing of a case the court ascertains that the national legal norm to be applied contradicts the provisions of the international treaties on human rights and fundamental freedoms to which the Republic of Moldova is a party, the court shall apply the international regulations directly justifying its judgment and notifying the authority that issued the respective national norm and the Supreme Court of Justice that it has done so.

(6) Decisions of the Constitutional Court interpreting the Constitution or the unconstitutionality of legal provisions shall be mandatory for criminal investigative bodies, courts and persons participating in criminal proceedings.

(7) Explanatory decisions of the Plenum of the Supreme Court of Justice on the application of legal provisions in judicial practice shall have the status of recommendations to criminal investigative bodies and to the courts.
[Art.7 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 8. Presumption of Innocence

(1) A person charged with the commission of a crime shall be presumed innocent until his/her guilt is proved in the manner set out in this Code in a public judicial proceeding during which all the guarantees necessary to his/her defense shall be secured and is confirmed by a final conviction sentence of the court.

(2) No one has to prove his or her innocence.

(3) Conclusions on a person's guilt in the commission of a crime may not be based on suppositions. By proving guilt, all doubts that cannot be eliminated under this Code shall be interpreted in favor of the suspect/accused/defendant.

Article 9. Equal Protection of the Law

(1) Everyone shall benefit from the equal protection of the law irrespective of sex, race, color, language, religion, political opinion or any other opinion, national or social origin, affiliation to a national minority, wealth, birth or any other situation.

(2) Special conditions for criminal investigations and hearings applied to certain categories of persons benefiting, in line with the law, from a certain degree of immunity shall be secured based on the provisions of the Constitution, international treaties, this Code and other laws.

Article 10. Observance of Human Rights, Freedoms, and Dignity

(1) All agencies and persons participating in criminal proceedings shall respect human rights, freedoms and dignity.

(2) The temporary limitation of the rights and freedoms of a person and the application of constraints by competent bodies shall be allowed only in cases and in manners strictly provided by this Code.

(3) During criminal proceedings, no one may be subjected to torture or to cruel, inhumane or degrading treatment; no one may be detained in humiliating conditions; no one may be forced to participate in actions that undermine human dignity.

(3^1) The burden of providing evidence that torture or other cruel, inhumane or degrading treatment was not administered shall be born by the authority detaining the person deprived of liberty or that placed there upon the order or instruction of a state agency or upon its tacit agreement or consent.

(4) Any person has the right by any means not forbidden by law to defend his/her rights, freedoms, and human dignity illegally violated or limited during a criminal proceeding.

(5) Damage caused to the rights, freedoms, and human dignity during a criminal proceeding shall be repaired in the manner set forth in the law.

(6) When a juvenile is a victim or a witness in court, actions shall be undertaken to respect his/her interests.
[Art.10 completed by Law No. 13-XVI dated 14.02.2008, in force as of 14.03.2008]
[Art.10 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]

Article 11. Inviolability of a Person

(1) The individual freedom and security of a person are inviolable.

(2) No one may be detained or arrested except in the cases and manners set forth in this Code.

(3) The deprivation of liberty, arrest, forced placement of a person in a medical institution or his/her assignment to a special educational institution shall be allowed based only on an arrest warrant or on a reasoned court judgment.

(4) The detention of a person prior to issuing an arrest warrant may not exceed 72 hours.

(5) Persons detained or arrested shall be immediately informed about their rights and the reasons for their detention or arrest, the circumstances and the legal qualification of the action the person is suspected or accused of in a language they understand and in the presence of a chosen defense counsel or an attorney providing the legal assistance guaranteed by the state.

(6) The criminal investigative body or the court must immediately release any person illegally detained or if the reason for his/her detention or arrest is found to be groundless.

(7) Searches, bodily searches and other actions that breach the inviolability of a person may be performed without the consent of the person or his/her legal representative only under the provisions in this Code.

(8) Any person detained or arrested shall be treated with respect for human dignity.

(9) In the course of a criminal proceeding, no one may be physically or mentally abused, and any actions or methods that jeopardize the life or health of a person, even with his/her consent and that endanger the environment shall be prohibited. A detainee or a person subject to preventive arrest may not be subject to violence, threats or methods that would affect his/her ability to make decisions or to express his/her views.
[Art.11 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 12. Inviolability of a Domicile

(1) The inviolability of a domicile is guaranteed by the law. During a criminal proceeding no one shall be entitled to enter anyone else's domicile against the will of the person or persons living or located there except in cases and in the manner provided for in this Code.

(2) Searches, domicile searches and other actions in a criminal investigation of a domicile must be ordered and conducted with a legal warrant except in cases and in manners provided for in this Code. When performing procedural actions without a legal warrant, the body authorized to conduct such actions shall immediately, however, not later than within 24 hours of the termination of the action submit to the court necessary documentation so that the legality of these actions is controlled.

Article 13. Inviolability of Property

(1) Individuals or legal entities may not be arbitrarily deprived of their property rights. No one may be deprived of his/her property except for reasons of public utility provided under this Code and in line with the general principles of international law.

(2) Goods may be sequestered only with a court judgment.

(3) Any goods seized during an action relevant to a criminal procedure shall be described in the transcript of the respective action, and the person whose goods were seized shall be handed a copy of this transcript.

Article 14. Privacy of Correspondence

(1) The right to the privacy of letters, telegrams and other mail; of telephone conversations and of other legal means of communication is guaranteed by the state. No one may be deprived of or have this right limited during a criminal proceeding.

(2) Any limitation of the right set forth in para. (1) shall be allowed only with a legal warrant issued under this Code.

Article 15. Inviolability of Private Life

(1) Every person has the right to the inviolability of his/her private life, to the confidentiality of his/her intimate and family life and to the protection of his/her personal honor and dignity. No one shall be entitled to arbitrarily or illegally interfere in the intimate life of a person during a criminal proceeding.

(2) In the course of criminal procedures, information on the private and intimate life of a person may not be collected unless necessary. Upon the request of a criminal investigative body and the court, participants in criminal procedural actions may not disclose such information and a written commitment in this regard shall be made.

(3) Persons requested by a criminal investigative body to provide information on their private and intimate lives shall be entitled to make sure that this information is part of a specific criminal case. Such persons shall not be entitled to refuse to provide information on their private and intimate lives under the pretext of the inviolability of private life; however, such persons shall be entitled to request from the criminal investigative body explanations for the need for such information, and those explanations shall be included into the transcript of the respective procedural action.

(4) Evidence confirming information on the private and intimate life of a person upon her/his request shall be examined during a secret court hearing.

(5) Damage caused to a person by breaching the inviolability of his/her private and intimate life in the course of a criminal proceeding shall be repaired in the manner set forth in the legislation currently in force.
[Art.15 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 16. Language of a Criminal Proceeding and the Right to an Interpreter

(1) The state language shall be spoken during a criminal proceeding.

(2) A person who does not speak the state language has the right to examine all the documentation on the case and to speak before the criminal investigative body and the court through an interpreter.

(3) Criminal proceedings may also be conducted in a language accepted by the majority of persons participating in the proceeding. In such a case, judgments shall be mandatorily prepared in the state language as well.

(4) The procedural acts of the criminal investigative body and the court shall be handed over to the suspect/accused/defendant translated into the native or other language he/she speaks in the manner provided for in this Code.

Article 17. Ensuring the Right to Defense

(1) In the entire course of a criminal proceeding, the parties (suspect/accused/defendant, injured party, civil party, civilly liable party) have the right to be assisted or, as the case may be, represented by a defense counsel of their choosing or by an attorney providing the legal assistance guaranteed by the state.

(2) The criminal investigative body and the court must ensure the full exercise of the procedural rights of the participants in a criminal proceeding in line with this Code.

(3) The criminal investigative body and the court must ensure the right of the suspect/accused/defendant to qualified legal assistance provided by a defense counsel of their choosing or by an attorney providing the legal assistance guaranteed by the state and independent of the investigative body.

(4) While examining the injured party and the witnesses, the criminal investigative body shall not be entitled to prohibit the presence of the attorney invited by the person examined to represent him/her.

(5) If the suspect/accused/defendant cannot afford a defense counsel, he/she shall be assisted free of charge by a court-appointed attorney providing the legal assistance guaranteed by the state.
[Art.17 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 18. Public Nature of Court Hearings

(1) Hearings are public in all courts except in cases provided by this article.

(2) Access to the courtroom may be prohibited to the press or public in a reasoned ruling for the entire duration of the proceeding or for a part thereof in order to ensure the protection of morality, public order or national security; when the interests of juveniles or the protection of the private lives of the parties in the proceeding so require or to the extent the court considers this measure strictly necessary due to special circumstances when publicity could damage the interests of justice.

(2^1) In a proceeding involving a juvenile victim or witness, the court shall hear his/her testimony in a closed hearing.

(3) Trying a case in a closed court hearing must be justified, and all the rules relating to such a judicial procedure shall be followed.

(4) In all cases, court judgments shall be pronounced publicly.
[Art.18 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]

Article 19. Free Access to Justice

(1) Any person has the right for his/her case to be examined and settled in an equitable manner within a reasonable timeframe by an independent, impartial, legally set court that will act in line with this Code.

(2) The person conducting a criminal investigation and the judge may not participate in the hearing of the case if they directly or indirectly are interested in the proceeding.

(3) The criminal investigative body must take all measures provided for in the law to make a comprehensive, complete and objective investigation of the circumstances of the case, to identify the circumstances that prove the guilt of the suspect/accused/defendant or that discharge that guilt and to identify any circumstances that mitigate or aggravate their liability.

Article 20. Reasonable Timeframe for Criminal Proceedings

(1) Criminal investigations and hearings of cases shall be performed within reasonable timeframes.

(2) Criteria assessing a reasonable timeframe for settling a criminal case are:
1) the complexity of the case;
2) the conduct of the parties in the proceeding;
3) the conduct of the criminal investigative body and the court;
4) if the victim is under the age of 18.

(3) Criminal investigations and hearings of criminal cases involving suspects/accused/defendants under preventive arrest or juveniles, shall be performed in an urgent and preferential manner.

(4) The observance of a reasonable timeframe during a criminal investigation shall be guaranteed by the prosecutor and during a case hearing by the respective court.

(5) The observance of a reasonable timeframe during the hearing of a specific case shall be verified by a higher court in the course of a hearing of the respective case under ordinary and extraordinary means of appeal.
[Art.20 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]

Article 21. Freedom from Testifying against Oneself

(1) No one may be forced to testify against himself/herself or against his/her close relatives, husband wife, fiancé or fiancée or to plead guilty.

(2) A person to whom a criminal investigative body suggests making revealing statements against himself/herself or against his/her close relatives, husband, wife, fiancé or fiancée shall be entitled to refuse to make such statements and may not be held liable for this.

Article 22. Inadmissibility of Repeated Prosecution, Trial or Punishment

(1) No one may be prosecuted by criminal investigative bodies, tried or punished by the court several times for the same crime.

(2) A person must be discharged or a criminal investigation must be terminated to prevent pressing repeated charges against the same person for the same act except in cases when new or recently discovered facts come to light or if a fundamental breach of justice in the previous proceeding affected the respective judgment.

(3) The decision of the criminal investigative body to discharge a person or to terminate criminal investigations, and the final court judgment shall prevent from resuming the criminal investigation pressing more severe charges or setting a more severe punishment for the same person and for the same act except for cases when new or recently discovered facts come to light or a fundamental breach in the previous proceeding affected the judgment issued.

Article 23. Securing the Rights of the Victims of Crimes, Abuses of Official Positions and Judicial Errors

(1) Criminal procedural law secures the rights of the victims of crimes or of abuses of official positions as well as of persons illegally convicted or arrested or whose rights are otherwise injured.

(2) The victim of an act that is a component of a crime shall be entitled to request hereunder the initiation of a criminal case, to participate in the criminal proceeding as an injured party and to solicit recovery of moral, physical and material damage.

(3) A person acquitted or discharged or for whom a criminal investigation was terminated for purposes of rehabilitation shall be entitled to the reinstatement of personal rights lost as well as to redress for damage caused.

Article 24. Principle of the Adversarial Nature of a Criminal Proceeding

(1) The criminal investigation, defense and hearing of a case are separate activities carried out by different bodies and persons.

(2) The court is not a criminal investigative body; it does not act in favor of the prosecution or of the defense and expresses only the interests of the law.

(3) The parties participating in the case hearing have equal rights under criminal procedural law with equal opportunities to support their positions. The court bases its sentence on only the evidence equally accessed by all parties for purposes of examination.

(4) The parties in a criminal proceeding select their positions and the manner and means of their unassisted support being independent from the court, other bodies or other persons. The court provides support to any party upon request under this Code in the management of relevant evidence.

Article 25. Dispensing Justice: an Exclusive Prerogative of the Courts

(1) In criminal cases, justice is dispensed in the name of the law only by courts. The establishment of illegal courts shall be prohibited.

(2) No one may be declared guilty of the commission of a crime and subjected to criminal punishment except based on a final court judgment adopted in line with this Code.

(3) The competence of the court and the limits of its jurisdiction and the manner in which the criminal proceeding is carried out may not be arbitrarily changed for certain categories of cases or persons and for a certain situation or a certain period of time.

(4) No one may be deprived of the right to have his/her case tried by a court and a judge competent to do so.

(5) Only the courts hereunder may verify sentences and other court judgments in a criminal case.

(6) Sentences and other judgments of illegal courts have no legal force and may not be enforced.

Article 26. Independence of Judges and Their Duty Only to Uphold the Law

(1) While dispensing justice in criminal cases, judges shall be independent and committed only to upholding the law. Judges hear criminal cases based on the law and in conditions excluding any pressure exerted upon them.

(2) A judge hears criminal cases in line with the law and his/her own views and based on evidence examined under the respective judicial procedure.

(3) A judge shall not be predisposed to accept conclusions presented by the criminal investigative body against the defendant or to begin a trial with the preconceived idea that the defendant committed the crime that constitutes the object of the charges against him/her. The submission of evidence for the prosecution shall be the duty of the prosecutor.

(4) Criminal justice shall be dispensed without interference. A judge shall oppose to any attempt to exert pressure on him/her. Exerting pressure on a judge while hearing a criminal case in order to influence a judgment shall imply criminal liability in line with the law.

(5) An investigative judge shall be independent in his/her relationship with other law enforcement bodies and courts and shall exercise his/her duties based only on the law and within its limits.

Article 27. Free Assessment of Evidence

(1) The judge and the person carrying out a criminal investigation shall assess evidence according to their own convictions formed after examining all the evidence managed.

(2) No evidence shall have a pre-established force of argument.

Article 28. Official Nature of a Criminal Proceeding

(1) The prosecutor and the criminal investigative body shall, within the limits of their competence, initiate a criminal investigation if they are informed in the manner set forth in this Code about the commission of a crime and shall undertake the actions necessary to determine the criminal act and the guilty person.

(2) The court shall undertake procedural actions upon its own initiative within the limits of its competence unless the law provides for such actions to be undertaken upon the request of the parties involved.

Title II
COURTS AND THEIR COMPETENCE

Chapter I
COURTS

Article 29. Courts that Dispense Justice in Criminal Cases

(1) In criminal cases, justice is dispensed by the Supreme Court of Justice, the courts of appeal and other courts according to their competence provided by this Code.

(2) For certain categories of criminal cases, specialized courts or colleges or panels of judges may be established.

(3) As part of the court with judicial authority and with its own functions in a criminal proceeding, investigative judges shall work at the criminal investigation stage.

Article 30. Composition of the Court

(1) Criminal cases shall be heard by a court in a panel of three judges or by one judge.

(2) In all courts of first instance, criminal cases shall be heard by one judge unless this article provides otherwise.

(3) Criminal cases involving exceptionally serious crimes for which the law provides for life imprisonment shall be heard in the first instance by a panel of three judges setup based on a reasoned decision of the court president.

(4) Especially complex criminal cases as well as cases of major social importance may be heard by a panel of three judges setup based on a reasoned decision of the court president.

(5) A panel of three judges of the respective courts shall hear appeal and cassation requests against court judgments in criminal cases in which appeals are not provided for and against the admissibility of judgments of the courts of appeals.

(6) The Greater College of the Supreme Court of Justice shall hear in a panel of five judges cassation requests against sentences of the Criminal College of the Supreme Court of Justice, against judgments of the court of appeals and requests for cassation for annulment.

(7) The Plenum of the Supreme Court of Justice shall hear requests for cassation for annulment in a panel of at least two thirds of the total number of judges of the Supreme Court of Justice.

Article 31. Change in the Panel of Judges

(1) The panel of judges setup in line with art. 30 shall remain the same for the entire duration of the case hearing except for the case set forth in para. (3). If this is not possible, the panel may be changed prior to the beginning of the judicial inquiry.

(2) After the beginning of the judicial inquiry, any change in the panel of judges shall imply a resumption of the judicial inquiry.

(3) If the case is heard in the first instance by a panel of three judges and one of them cannot further participate in the case hearing due to a lingering disease, death or dismissal under the law, this judge shall be replaced by another judge and the case shall be further tried. The new judge shall be offered time to look through all case materials including those examined by the court and to prepare for subsequent participation in the proceeding. The replacement of the judge under this paragraph does not imply a resumption of the case hearing. The judge shall

be entitled to solicit the repetition of previous procedural actions carried out during the hearing in his/her absence if additional issues need to be specified.

(4) The authority of transferred, temporarily dismissed, removed, suspended or dismissed judges during the final stage of a criminal case hearing shall be preserved according to the decision of the Superior Council of Magistracy, until the end of the respective case hearing.

Article 32. The Place for Hearing of Criminal Materials and Cases

Criminal materials and cases shall be heard at a court premises. In a justified ruling, a court may decide to hear a case in a different place provided there are justifiable reasons to do so.

Article 33. Incompatibility of a Judge

(1) Judges who are married or related to each other cannot be members of the same panel.

(2) A judge cannot participate in a case hearing and shall be recused:

1) if he/she personally, his/her spouse, their descendants, brothers or sisters and their children, their in-laws and persons who by adoption have become relatives according to law, and other relatives of the judge are directly or indirectly interested in the proceeding;

2) if he/she is an injured party or its representative, a civil party, a civilly liable party, the spouse or relative of one of these persons or their representative or the spouse or relative of the accused/defendant in the proceeding or his/her defense counsel;

3) if he/she participated in the trial as a witness, expert, specialist, interpreter, court secretary, person who carried out the criminal investigation, prosecutor, investigative judge, defense counsel, legal representative of the accused/defendant or representative of the injured, civil, or civilly liable party;

4) if he/she performed an investigation or an administrative control of the case circumstances or participated in the adoption of the decision on this case in any public or state body;

5) if he/she issued decisions on this case prior to the hearing in which he/she expressed his/her opinion on the guilt or innocence of the defendant;

6) if there are other circumstances that cast a reasonable doubt on the judge's impartiality.

(3) The judge may not participate in a new hearing of a case either in the first instance or in an ordinary or extraordinary court of appeals and shall be also recused if he/she previously participated as a judge in the hearing of the same case in the first instance or in a court of appeals or cassation or as an investigative judge. This provision shall not apply to members of the Plenum of the Supreme Court of Justice and to the judges of the Supreme Court of Justice rehearing cases based on a decision of the Plenum of the Supreme Court of Justice.

(4) Provisions on cases of incompatibility set forth in para. (2) point 5) and para. (3) shall not apply to investigative judges and to judges of the court of cassation who hear cassation requests against a judgment on preventive measures.

[Art.33 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 34. Self-Recusal or Recusal of a Judge

(1) If the circumstances set forth in art. 33 occur, the judge shall recuse him/herself from hearing the case.

(2) The judge may be recused for the same reasons by the parties in the case. Recusal shall be determined and may be submitted, as a rule, prior to the beginning of the judicial inquiry. A request for recusal may be made later only in cases when the person making the request found out about the reasons for recusal after the beginning of the judicial inquiry.

(3) The premature recusal of judges who have not yet participated in the respective case hearing and of a judge or a panel of judges that rules on a recusal request shall be unacceptable. However, arguments for requesting a recusal may be invoked in an appeal or, as the case may be, in cassation against a judgment in the first instance.

(4) Should a request for recusal be submitted repeatedly, deceitfully and abusively in order to delay the proceeding, to mislead the court or with other malicious intentions, the court hearing the case may apply a court fine in line with this Code.

Article 35. Procedure for Ruling on a Request for Recusal or on Self-Recusal

(1) Requests for recusal or self-recusals shall be settled by a judge or, as the case may be, by a panel of judges not involved in the proceeding. When ruling on requests for recusal or the self-recusal of judges who are members of a panel of three or five judges, the judges of this panel who are not recused may be included on the new panel of judges.

(2) Requests for recusal or self-recusals shall be examined on the same day they are filed, and the parties and the person whose recusal is requested shall be heard. If a new panel of judges cannot be created in the same court, the recusal shall be settled not more than 10 days from the date of receipt of the case file by a higher court which, upon accepting the request for recusal or self-recusal, shall appoint a court of the same level as the court where the recusal was initiated to hear the case.

(3) The ruling of the court on a recusal shall not be subject to appeal.
[Art.35 amended by Law No. 2-XVI dated 07.02.2008,in force as of 29.02.2008]

Chapter II
COMPETENCE OF THE COURTS

Article 36. Competence of the Courts

The courts shall hear in the first instance criminal cases related to the crimes set forth in the Special Part of the Criminal Code, except for crimes referred by law to the competence of other courts as well as petitions and complaints submitted against the decisions and actions of criminal investigative bodies. The courts shall also hear issues related to the enforcement of sentences and other issues referred by law to their competence.

Article 37. Competence of a Military Court

A military court hears in the first instance cases related to the crimes set forth in the Special Part of the Criminal Code committed by:

1) soldiers, sergeants and officers of the National Army, the Rifle Brigade (interior troops) of the Ministry of Home Affairs, the Department for Emergency Situations, the Information and Security Service, the Border Patrol and the State Protection and Security Guard Service;

2) full-time employees of penitentiaries;

3) persons liable for military service during mobilizations;

4) other persons specified in the legislation.

Article 38. Competence of the Courts of Appeals

The courts of appeals:

1) hear in the first instance criminal cases related to the crimes set forth in arts.135-144, 278, 279, 283, 284 and 337-343 of the Criminal Code;

2) hear as appellate courts appeals against judgments issued by courts in the first instance, including military court;

3) hear as courts of cassation cassations against court judgments that by law may not be subject to appeal;

4) settle conflicts of competence arising between courts;

5) review cases referred by law to their competence.

Article 39. Competence of the Supreme Court of Justice

The Supreme Court of Justice:

1) hears in the first instance criminal cases related to crimes committed by the President of the Republic of Moldova;

2) hears as a court of cassation cassations against judgments issued in the first instance or, as the case may be, against judgments of the courts of appeals as well as other cases provided for by law;

3) within the limits of its competence hears cases subject to extraordinary means of appeal, including cassations for annulment;

4) addresses inquiries to the Constitutional Court to verify the constitutionality of legal acts and to settle exceptional cases on the unconstitutionality of legal acts;

5) issues explanatory decisions on issues related to judicial practice of the uniform application of criminal law and criminal procedural legislation;

6) settles cases in which the legal proceeding has been interrupted and requests for transferring cases.

Article 40. Territorial Competence of a Criminal Case

(1) A criminal case shall be heard by the court in the territorial jurisdiction in which the crime is committed. If the crime is continuous or prolonged, the case shall be heard by the court in the territorial jurisdiction in which the crime was consummated or suppressed.

(2) If it is impossible to determine the place of the commission of the crime, the case shall be heard by the court in the territorial jurisdiction in which the criminal investigation of the case is completed.

(3) Criminal cases related to crimes committed outside the borders of the country or on a vessel shall be heard by the court in the territorial jurisdiction of the last permanent domicile

of the defendant or, if unknown, in the territorial jurisdiction in which the criminal investigation of the case is completed.

Article 41. Competence of the Investigative Judge

The investigative judge shall secure judicial control over a criminal investigation by:

1) ordering, replacing, terminating or revoking preventive arrest and house arrest;

2) ordering or revoking the provisional release of a detainee or arrestee, temporarily revoking his/her driver's license;

3) authorizing a search; bodily search; the sequestration of goods; the seizure of objects containing state, trade or banking secrets, or exhumation;

4) ordering placement in a medical institution;

5) authorizing wiretapping, the sequestration of correspondence, video recording;

6) examining witnesses in line with arts.109 and 110;

7) undertaking other actions provided hereunder.

[Art.41 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 42. Competence in Criminal Cases that are Inextricably Related or Merged

(1) If criminal cases are inextricably related or merged, they shall be heard by one court, provided that the trial takes place concurrently for all the acts and all the perpetrators.

(2) Criminal cases shall be inextricably related when the crime is committed by several persons, when two or several crimes are committed by the same action or when a continuous or prolonged crime is committed.

(3) Criminal cases are merged:

1) when two or several crimes are committed by different actions by one or several persons together at the same time and in the same place;

2) when two or several crimes are committed by the same person at different times and in different places;

3) when a crime is committed to prepare, facilitate or hide the commission of any other crime or to facilitate or ensure the exemption from criminal liability of the perpetrator of any other crime;

4) when two or several crimes are interconnected and the merging of the cases is determined by the need to more equitably dispense justice.

(4) If criminal cases are merged and involve several persons charged with the commission of crimes in the territorial jurisdiction of different courts of the same level or if they involve one person charged with the commission of several crimes provided that such cases are in the competence of two or several courts of the same level, the case shall be heard by the court in the territorial jurisdiction in which the criminal investigation of the case is completed.

(5) If a person or a group of persons is charged with the commission of one or several crimes and if the case related to one of the accused or one of the crimes is under the competence of a higher court, the case shall be heard by the higher court.

(6) If there is a conflict of competence between a military court and a court, the case shall be heard by the court.

(7) The merging of cases shall be allowed by a corresponding court if the incriminating actions do not merit a more severe charge, while upon request of the prosecutor and in other cases - to replace the accusation with a more severe form.

Article 43. A Court's Competence to Merge Criminal Cases

(1) The merging of cases shall be decided by the court competent to hear such cases in line with the provisions of art. 42.

(2) If criminal cases are inextricably related or merged and are filed with the court of first instance, such cases shall be merged by this court even following the overturning of the judgments issued on these cases and their return for rehearing by the court of cassation.

(3) Cases can also be merged by courts of appeals or cassation of the same level provided that such cases are at the same stage of hearing.

Article 44. Denial of the Competence of a Court

(1) A court stating that it is not competent to hear a criminal case shall, by a ruling, deny its competence and send the case to a competent court.

(2) Should a denial of competence be determined by the material competence or the competence by the status of the person or by territorial competence, the court receiving the case may maintain the measures ordered by the court that denied competence.

(3) A denial of competence and transmission to a lower court of a case initiated in a higher court shall not be allowed.

(4) The ruling on a denial of competence shall be final.

Article 45. Conflict of Competence

(1) When two or more courts either consider themselves competent to hear the same case (positive conflict of competence) or deny their competence (negative conflict of competence), the conflict shall be settled by their common higher court.

(2) For a positive conflict of competence, the higher court shall be addressed by the court that was the last to declare its competence. For a negative conflict of competence, the higher court shall be addressed by the court that was the last to deny its competence.

(3) The parties in the proceeding may file statements in all cases.

(4) Proceedings shall be suspended until the positive conflict of competence is settled. The last court to declare its competence or the last court to deny its competence shall act with urgency and shall undertake urgent measures.

(5) The common higher court shall settle conflicts of competence in line with the rules applied to courts of first instance. In all cases, the term for settling conflicts of competence shall not exceed seven days from the date the case is registered with the higher court.

(6) The ruling of the court that settles a conflict of competence shall be final; however, arguments against it may be invoked during an appeal or, as the case may be, cassation against the judgment in the first instance.

(7) The court that receives the case based on a ruling on competence may not deny its competence unless new circumstances arise as a result of a judicial inquiry and it is determined that the act committed is a crime referred by law to the competence of another court.
[Art.45 amended by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]

Article 46. Transfer of a Criminal Case from a Competent Court to another Court of the Same Level

(1) The Supreme Court of Justice shall transfer a criminal case from a competent court to another court of the same level provided that the transfer will bring about an objective, rapid and complete settlement of the case, and the normal course of criminal proceedings.

(2) The transfer of a case may be requested by the president of the court or by one of the parties in the case.

Article 47. Request for a Case Transfer and Effects Thereof

(1) A request for a case transfer shall be justified and addressed to the Supreme Court of Justice at least five days prior to the beginning of the judicial inquiry. The documents supporting the request shall be attached thereto provided that the party requesting the transfer has such documents.

(2) The request shall include remarks about any persons arrested.

(3) A suspension of the case hearing may be ordered by the Supreme Court of Justice following the receipt of a request for a case transfer.
[Art.47 amended by Law No. 2-XVI dated 07.02.2008, in force as of 29.02.2008]
[Art.47 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 48. Procedure for Notifying Parties and for Examining Requests for Case Transfers

(1) The parties involved shall be notified of the date for examining a request for a case transfer though their presence at the hearing shall be optional.

(2) A request for a case transfer shall be examined in a public hearing by a panel of three judges of the Supreme Court of Justice.

(3) The opinion of the parties if they appear in court shall also be heard.

Article 49. Settlement of a Request for a Case Transfer

(1) The Supreme Court of Justice shall accept or reject a request for a case transfer and shall specify the reasons for its decision.

(2) Should it be deemed that the request is justified, the Supreme Court of Justice shall order the case transfer indicating a specific court. This court shall be immediately notified of the acceptance of the request for a case transfer.

(2^1) The court from which the case is to be transferred shall send the case to the competent court within five days.

(3) Should the court from which the case is to be transferred meanwhile have proceeded to hear the case, any judgment issued by this court shall be cancelled through the acceptance of the request for a case transfer.
[Art.49 completed by Law No. 2-XVI dated 07.02.2008, in force as of 29.02.2008]
[Art.49 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 50. Repeated Requests for a Case Transfer

A case transfer may not be requested twice unless the new request is based on circumstances that were unknown to the Supreme Court of Justice when settling the previous request or on circumstances that occurred after the first request.

Title III
THE PARTIES AND OTHER PARTICIPANTS IN A CRIMINAL PROCEEDING

Chapter I
THE PROSECUTION

Article 51. Prosecutor

(1) The prosecutor is the official who within the limits of his/her competence and in the name of the state conducts a criminal investigation, represents the prosecution in court and performs other duties provided hereunder. The prosecutor participating in the hearing of a criminal case shall have the status of public prosecutor.

(2) The prosecutor shall be entitled to submit a civil action against the accused/defendant or the person materially liable for the act of the accused/defendant:

1) in the interest of an injured party who is incapable or who is dependent on the accused/defendant or who, due to other reasons, cannot exercise his/her right to submit a civil action;

2) in the interest of the state.

(3) While performing his/her duties as part of a criminal proceeding, the prosecutor shall be independent and subordinate only to the law. The prosecutor shall also execute the written orders of a higher-level prosecutor.

(4) The prosecutor shall represent the prosecution during a case hearing in the name of the state and shall present in the hearing the evidence obtained by the criminal investigative body.

(5) The prosecutor shall be entitled to request an appeal or cassation against judgments he/she considers illegal or unjustified.

(6) The Prosecutor General and his/her deputies shall be entitled to contest under extraordinary means of appeal final judgments they consider illegal or unjustified.

(7) The prosecutor shall perform the duties provided hereunder at the stage of enforcing court judgments.

(8) If a criminal proceeding was unjustifiably initiated against a person and if an acquittal was issued, the prosecutor who managed or conducted the criminal investigation or the higher-level prosecutor shall officially apologize to the respective person.
[Art.51 completed by Law No. 376-XVI dated 07.12.2006, in force as of 02.02.2007]

Article 52. Prosecutor's Duties during a Criminal Investigation

(1) During a criminal investigation the prosecutor:
1) initiates the criminal investigation and orders its performance in line with this Code or refuses to initiate the criminal investigation or terminates it;
2) directly conducts the investigation in line with the law;
3) personally conducts the criminal investigation and verifies the lawfulness of the procedures undertaken by the criminal investigative body and decides whether or not to exclude evidence from the case file in line with the provisions in art. 94 para. (1);
4) controls the procedures for receiving and registering notifications of crimes;
5) requests from the criminal investigative body for purposes of control criminal case files, documents, procedural actions, materials and other data related to the crime committed and the persons identified in a criminal case over which he/she exerts control and orders cases to be merged or, as the case may be, split when necessary;
6) verifies the quality of the evidence collected and ensures that any crime is solved and that every criminal is made liable and that no one is prosecuted without clear indication that he/she committed a crime;
7) sets a reasonable timeframe for the criminal investigation of every case;
8) cancels illegal and unjustified orders of a criminal investigative body;
9) withdraws a criminal case from a criminal investigative body or officer and transmits it by competence to another investigative body or officer in order to ensure an objective and complete criminal investigation;
10) orders that criminal investigations be performed by a group of criminal investigative officers or by several criminal investigative bodies by appointing persons who will conduct criminal investigations;
11) settles requests of criminal investigative officers to withdraw from an investigation or recusal requests;
12) decides on the application, modification or cancellation of preventive measures except for preventive arrest, house arrest, provisional release, and temporary revocation of a driver's license;
13) determines the lawfulness of a person's arrest;
14) gives written instructions on criminal investigative measures and operative investigative measures in terms of searching persons who have allegedly committed crimes;
15) issues, in line with the provisions of this Code, orders for a person's arrest, for requiring a person's appearance, on the seizure of objects and documents and on other criminal investigative actions;
16) addresses to the court requests authorizing arrest and extensions of its term, the provisional release of a detainee or arrestee, the sequestration and seizure of correspondence, wiretapping, the provisional dismissal of the accused from office, the physical and electronic surveillance of a person, the exhumation of a body, video and audio taping of a room, the installation of audio and video recording equipment, the

verification of communications addressed to the suspect, the hospitalization of a person for the purpose of obtaining medical expertise about his/her condition and other actions that require the authorization of the investigative judge;

17) is present during any criminal investigative actions or performs them personally;
18) requests the participation of the investigative judge in certain actions if the law provides for his/her mandatory participation;
19) returns to the criminal investigative body criminal case files accompanied by his/her written orders;
20) removes the person conducting a criminal investigation if he/she violates the law during the investigation;
21) addresses to the relevant authority notifications related to the withdrawal of certain persons' immunity and the initiation of a criminal investigation against them;
22) terminates a criminal proceeding, orders that a person be discharged or that the criminal case be dismissed in cases set forth in the law;
23) presses charges and interrogates the accused based on the evidence submitted by the criminal investigative body or on the evidence collected by him/her personally;
24) informs the parties involved about case materials;
25) issues an indictment in a criminal case, a copy of which is handed over to the accused, and sends the case to a competent court;
26) informs criminal investigative and the operative investigative bodies about eliminating violations of the law.

(2) Regional and specialized prosecutors and their deputies in addition to the duties listed in para. (1), during criminal investigations shall have the following hierarchical control duties:

1) request from a lower-level prosecutor, for control purposes, criminal case files, documents, procedural acts, materials and other data related to crimes committed and to persons identified in criminal cases over which he/she exerts control;
2) cancel illegal and unjustified acts of lower-level prosecutors;
3) settle requests for withdrawal or recusal from lower-level prosecutors;
4) confirm orders for discharging or terminating a criminal investigation for non-rehabilitation reasons;
5) confirm indictments issued by lower-level prosecutors;
6) return criminal case files to lower-level prosecutors with written orders;
7) approve plea bargaining and confirm orders on the conditional suspension of criminal investigations.

(3) The Prosecutor for Chisinau Municipality and the Prosecutor for Gagauzia and their deputies during criminal investigations perform the same duties as provided in paras. (1) and (2) as well as other duties resulting from their hierarchical control activity as provided by this Code.

(4) The Prosecutor General and his/her deputies during criminal investigations perform the duties set forth in paras. (1), (2), and (3) as well as other duties resulting from the hierarchical control activity as provided by this Code.

(5) During criminal investigations, the prosecutor avails of other rights and has other obligations set forth in this Code.

[Art.52 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 53. Prosecutor's Duties in Court

(1) During the hearing of a criminal case in court, the prosecutor shall have the following duties:

1) represent the prosecution in the name of the state and submit in the hearing the respective evidence in a case in which he/she managed or personally conducted the criminal investigation;

2) participate in the examination of the evidence submitted by the defense, present new evidence necessary to support the prosecution, make motions and express his/her opinion on issues that arise in the course of the judicial arguments;

3) request that the court bring more severe charges against the defendant and admit new evidence provided that following the judicial inquiry it was ascertained that the defendant had allegedly committed other crimes and that existing evidence is insufficient;

4) change the legal qualification of the crime committed by the defendant provided that a judicial inquiry confirms that the defendant committed this crime;

5) if the criminal investigation was incomplete, make a motion to interrupt the hearing of the criminal case for the period provided hereunder so that new evidence can be submitted supporting the charges brought against the defendant;

6) give written instructions to the criminal investigative body regarding procedural actions undertaken to collect new evidence or in connection with new crimes;

7) orders summoning by force before the court in line with art. 199 those persons included in the list submitted to the court and the persons required to introduce new or additional evidence;

8) express his/her opinion during judicial arguments, on the criminal act allegedly committed by the defendant, its qualification based on criminal law and the punishment to be applied;

9) submit an appeal or, as the case may be, a request for cassation regarding the criminal case in general and the part related to a civil action, withdraw such requests in the manner provided under this Code.

(2) By hearing criminal cases, the prosecutor shall also avail himself/herself of other rights and obligations provided under this Code.

[Art.53 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 54. Self-Recusal or Recusal of the Prosecutor

(1) The prosecutor may not participate in a criminal proceeding:

1) if there exists at least one of the circumstances specified in art. 33 duly applied;

2) if he/she cannot act as a prosecutor based on the law or on a sentence of the court.

(2) The fact that the prosecutor participated in the criminal investigation, managed or exerted control over criminal procedural actions or represented the prosecution in court shall not prevent him/her from further participation in the hearing of the same criminal case.

(3) Should the reasons provided in para. (1) exist, the prosecutor shall recuse him/herself and refrain from participating in the respective case.

(4) For the same reasons, the prosecutor may be recused by other participants in the proceedings in the respective case as they are vested with such a right in line with this Code.

(5) The self-recusal or the recusal of the prosecutor shall be settled:

1) during criminal investigations by the higher-level prosecutor and of the Prosecutor General by a judge of the Supreme Court of Justice;

2) during the hearing of the case by the corresponding court.

(6) The judgment settling the recusal shall not be subject to appeal.

Article 54[1]. Consultant to the Prosecutor

(1) The prosecutor may be assisted during a criminal proceeding by a consultant.

(2) Upon the instructions of the prosecutor the consultant shall:

a) study criminal case materials and prepare draft documents issued by the prosecutor;

b) prepare the transcripts of procedural actions undertaken by the prosecutor and provide technical assistance to the prosecutor;

c) request legal entities and individuals to submit documents and materials;

d) ensure that the persons involved in the criminal proceeding are summoned;

e) organize the enforcement of court summons in line with the law of persons summoned by the prosecutor;

f) provide the persons mentioned in art. 293 with documents on the criminal investigation for purposes of familiarization;

g) provide the prosecutor with other types of assistance in line with his/her obligation to perform the duties set forth in arts. 52 and 53.

(3) The consultant to the prosecutor shall act under the supervision of the prosecutor and shall not be entitled to perform any procedural actions he/she was not charged with or that were not coordinated with the prosecutor.

(4) The consultant to the prosecutor shall sign any procedural acts related to actions he/she performed or participated in.

(5) The consultant must not disclose professional secrets and must maintain the confidentiality of the facts and information that become known to him/her during the performance of his/her professional duties and shall be liable in line with the law for any illegal actions undertaken while performing official duties.

[Art.54[1] introduced by Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]

Article 55. Criminal Investigative Bodies and Their Duties

(1) Criminal investigative officers of the criminal investigative bodies mentioned in art. 56 shall conduct criminal investigations.

(2) Criminal investigative bodies shall undertake operative investigations, including the use of audio and video recording, filming and photography and shall perform other criminal investigative actions provided hereunder in order to discover evidence of a crime and the persons who committed it, to establish facts and to officially register these actions that may be used as evidence in a criminal case following their verification in line with criminal procedural legislation.

(3) Criminal investigative bodies shall also undertake all necessary measures to prevent and to suppress crime.

(4) If there is evidence that a crime has been committed, the criminal investigative body in addition to registering the notification of the crime shall initiate a criminal investigation and following the provisions of this Code shall perform investigative actions aimed at solving the crime and at registering evidence confirming or denying the commission of the crime and shall undertake measures aimed at securing a civil action or an eventual seizure of illegally obtained goods.

(5) The criminal investigative body shall immediately notify the prosecutor about any crime committed and the commencement of a criminal investigation.

Article 56. Chief of a Criminal Investigative Body and His/Her Duties

(1) In criminal cases, the duties of the chief of a criminal investigative body shall be performed by the criminal investigative officer of the Ministry of Home Affairs, the Customs Service or the Center for Combating Economic Crimes and Corruption appointed in the manner duly set out in the law all of whom shall act within the limits of their competence.

(2) The chief of a criminal investigative body shall exert control over the timeliness of solving and preventing crimes, shall undertake measures aimed at securing comprehensive, complete and objective criminal investigations and shall ensure duly registration of notifications about the commission of crimes.

(2^1) While performing his/her official duties, the chief of a criminal investigative body shall:

a) transmit to criminal investigative officers for settlement notifications and materials related to the commission of crimes;

b) transmit to criminal investigative officers for execution requests for legal assistance and rogatory commission of investigative actions received from other criminal investigative bodies;

c) assign criminal cases to criminal investigative officers so that a criminal investigation is initiated provided that such cases were not assigned by the prosecutor;

d) order, upon consent of the prosecutor, that a criminal investigation shall be performed by several criminal investigative officers;

e) verify criminal cases and give instructions on investigative actions and operative measures;

f) have the right to participate in and personally conduct a criminal investigation performing the duties of a criminal investigative officer;

g) suggest that the prosecutor withdraw a criminal case from a criminal investigative officer and transfer it to another officer in order to ensure an objective and complete criminal investigation;

h) address requests to the prosecutor to cancel certain unlawful acts of criminal investigative officers;

i) perform other actions as provided in legislation.

(2^2) The orders of the chief of a criminal investigative body in criminal cases shall be addressed to the criminal investigative officer in writing and shall be mandatorily executed.

(2^3) The chief of a criminal investigative body shall coordinate the activities of the criminal investigative officers and shall be responsible for the quality of the procedural acts prepared by them and submitted to the prosecutor in line with the law, shall provide methodical

assistance and practical help in the course of a criminal investigation, shall help to collect necessary data and materials and shall undertake measures to execute the duties of criminal investigative officers during a criminal investigation in a timely fashion.

(2^4) The chief of a higher-level criminal investigative body shall have the right to require the transfer of criminal cases from a lower-level body for control purposes.

(2^5) The chief of a lower-level criminal investigative body must provide the chief of a higher-level criminal investigative body with a criminal case for purposes of control by informing in advance the prosecutor managing the criminal investigation.
[Art.56 completed by Law No. 256-XVI dated 29.11.2007, in force as of 28.12.2007]
[Art.56 amended by Law No. 178-XVI dated 22.07.05, in force as of 12.08.05]

Article 57. Criminal Investigative Officer and His/Her Duties

(1) A criminal investigative officer is the official who, in the name of the state and within the limits of his/her competence, conducts criminal investigations in criminal cases.

(2) A criminal investigative officer shall have the following duties:

1) to ensure the due registration of the notification of the preparation of or the commission of a crime if the notification was not registered by the chief of the criminal investigative body; to initiate a criminal investigation provided that the contents of the notification or of other relevant documents imply a reasonable suspicion that a crime was committed; to suggest that the prosecutor terminate a criminal investigation, dismiss a criminal case or refuse to initiate a criminal investigation;

2) to propose that competence for a criminal investigation of a criminal case be transferred to a different criminal investigative body;

3) to bear responsibility for a legal and timely criminal investigation;

4) to suggest that the prosecutor make a motion to the court to obtain authorization for a search; for sequestering and seizing goods, mail or telegraphic correspondence; for wiretapping and intercepting other forms of electronic communication; for temporarily dismissing the accused; for seizing objects and documents from third parties; for the physical or electronic surveillance of a person; for forcibly taking samples of saliva, blood, hair or nails; for exhumation; for audio and video monitoring of a premises; for installing in a premises the technical means for audio and video recording or for controlling messages or information addressed to the suspect;

5) to summon and examine persons as suspects, injured parties or witnesses;

6) to duly examine and register the site of the commission of a crime; to perform searches in the case of flagrant crimes or urgent cases; to seize objects and documents or to perform other actions on site in line with the law;

7) to request documents and materials containing data about the crime and the persons who allegedly committed the crime;

8) to order an inspection of documents and an inventory of them and to request departmental expertise and other actions;

9) at the moment of the registration of a socially dangerous act, to manage the operative investigation to solve the crime search for missing persons and identify goods lost as a result of the commission of the crime;

10) to order, by a rogatory letter, to other criminal investigative bodies to perform investigative actions;

11) to instruct the police on detention, forcible summons, arrest and other procedural actions and request their assistance in a criminal investigation;

12) to acknowledge a person as the injured party, civil party or civilly liable party;

13) to undertake measures provided by law to ensure redress for damage caused by the crime;

14) to request that the Regional Office of the National Council for the Legal Assistance Guaranteed by the State appoint an attorney to provide the legal assistance guaranteed by the state in criminal cases in line with the provisions of this Code;

15) to settle the recusal of an interpreter, translator, specialist, expert;

16) to issue orders on the requests of persons participating in the criminal proceedings;

17) to propose the selection, extension, change or revocation of preventive measures, the release of a suspect detained prior to an authorization for his/her arrest issued by the court;

18) to execute the written orders of the prosecutor;

19) to contest in the manner duly set out in the law the orders of the prosecutor or the chief of the criminal investigative body related to the performance of certain criminal investigative actions;

20) at the request of the prosecutor, to submit written explanations;

21) to submit to the prosecutor the evidence collected in a case that is necessary to bring charges.

(3) In a criminal proceeding, the criminal investigative officer also has other duties provided in this Code.

(3^1) The requirements of the criminal investigative officer related to a criminal investigation in line with the law shall be mandatory for all individuals and legal entities.

(4) While performing his/her official duties, a criminal investigative officer shall be independent and subordinate to the provisions of this Code and to the written orders of the prosecutor and the chief of the criminal investigative body.

(5) A criminal investigative officer must ensure the protection of human rights and liberties in line with criminal procedural law.

(6) The recusal of a criminal investigative officer shall be subject to art. 54 and shall be settled by the prosecutor.

[Art.57 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.57 amended by Law No. 256-XVI dated 29.11.2007, in force as of 28.12.2007]

Article 58. Victim

(1) A victim is any individual or legal entity that suffers moral, physical, or material damage due to a crime.

(2) A victim has the right to have his/her complaint immediately registered in the duly prescribed manner to be settled by a criminal investigative body and to be thereafter notified about the results of such a settlement.

(3) A victim has the following rights:

1) to get an affidavit from a criminal investigative body confirming that he/she filed a complaint, or a copy of the transcript of the written complaint;

2) to submit documents and objects supporting his/her complaint;

3) to file an additional complaint;

4) to request from the relevant body information about the settlement of his/her request;

5) to request that the criminal investigative body acknowledge him/her as an injured party in a criminal case;

6) to submit a request to be acknowledged as a civil party in a criminal proceeding;

7) to withdraw requests in cases provided for in the law;

8) to get an affidavit confirming the registration of the his/her complaint and the initiation of a criminal investigation or a copy of the order refusing to initiate a criminal investigation;

9) to contest a refusal to initiate a criminal investigation within 10 days of the of receipt of a copy of the respective order and to review the materials supporting the order;

10) to be protected from actions prohibited by law in the manner provided for protecting persons participating in a criminal proceeding;

11) to be assisted by a defense counsel of his/her choosing during procedures involving his/her participation.

(4) The victim of an especially severe or an exceptionally severe crime irrespective of whether or not he/she is acknowledged as an injured party or a civil party shall also have the following rights:

1) to have access to a defense counsel during the entire criminal proceeding like the other parties in the proceeding;

2) to be assisted by a court-appointed attorney to provide the legal assistance guaranteed by the state if unable to afford an attorney;

3) to be accompanied in addition to his/her attorney by a confidant during all proceedings, including closed hearings;

4) to obtain a copy of the court's judgment on the recovery of material damage caused by the crime.

(5) A victim of trafficking in human beings shall have the right to state protection immediately upon being identified.

(6) Should a state enterprise, institution, organization act as a victim, they shall not have the right to withdraw a complaint.

(7) A victim shall be warned in writing about criminal liability for false denunciations.

(8) A victim shall be obliged:

1) to appear when summoned by the criminal investigative body or the court and to provide explanations at the request of these bodies, except for victims of trafficking in human beings;

2) at the request of the criminal investigative body, to submit objects, documents and other available sources of evidence as well as samples for comparative investigation;

3) at the request of the criminal investigative body, to allow a medical examination if he/she complains about physical damage caused by the crime;

4) to obey all legal orders of the representative of the body that will settle his/her complaint or those of the chairperson of the hearing;

5) to behave in an orderly fashion during the court hearing and not to leave the courtroom without the permission of the chairperson of the hearing.

(9) A victim shall also have other rights and obligations provided by this Code.

(10) A victim exercises his/her rights and performs his/her obligations personally or if allowed by the law, through a representative. Should the victim be a juvenile or a person in a state of irresponsibility, his/her rights shall be exercised by his/her legal representatives in the manner duly set out in this Code.

(11) A victim shall be examined under the conditions set hereunder for examining witnesses. Any victim who deliberately makes false testimony shall be criminally liable in line with the provisions of art. 311 of the Criminal Code.

[Art.58 amended by Law No. 237-XVI dated 13.11.2008, in force as of 05.12.2008]
[Art.58 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.58 amended by Law No. 387-XVI dated 08.12.2006, in force as of 31.12.2006]
[Art.58 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 59. Injured Party

(1) An injured party is an individual or a legal entity that has suffered moral, physical or material damage as a result of a crime acknowledged as such in line with the law and upon consent of the victim. A juvenile who has suffered damage as a result of a crime shall be considered to be an injured party without his/her consent.

(2) The acknowledgement as an injured party shall be confirmed by an order of a criminal investigative body immediately upon establishing the reasons for such a procedural status.

(3) If after the acknowledgement of a person as an injured party circumstances are discovered that confirm the absence of any damage caused, the criminal investigative body shall discontinue in a reasoned order the participation of this person as an injured party in the respective proceeding.

[Art.59 completed by Law No. 237-XVI dated 13.11.2008, in force as of 05.12.2008]
[Art.59 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]

Article 60. Rights and Obligations of an Injured Party

(1) An injured party shall have the following rights:

1) to know the essence of the accusation;

2) to make statements and provide explanations;

3) to submit documents and other sources of evidence as part of the criminal case to be presented in the hearing;

4) to request the recusal of the person conducting the criminal investigation, of the judge, prosecutor, expert, interpreter, translator or court secretary;

5) to object to actions of the criminal investigative body or of the court and to request that his/her objections be included in the transcript of the respective action;

6) to review all the transcripts of the procedural actions he/she participated in and to request their completion or the inclusion of his/her objections in the respective transcript;

7) to review the materials in the criminal case file as of the moment of completion of the criminal investigation and to copy out any information from the case file;

8) to participate in the hearing, including in the examination of case materials;

9) to speak during the judicial arguments about the damage caused;

10) to be informed by the criminal investigative body about all decisions that are related to his/her rights and interests, to get free of charge upon his/her request copies of these decisions and of a decision to terminate or dismiss the respective case or to refuse to initiate a criminal investigation and a copy of the sentence, decision or any other court's final judgment;

11) to file complaints about the actions and decisions of the criminal investigative body and to contest the judgment of the court related to the damage caused;

12) to withdraw complaints he/she or his/her representative filed including complaints about actions committed against him/her prohibited by law;

13) to reconcile with the suspect/accused/defendant as provided for in the law;

14) to object to complaints of other participants in the proceeding brought to his/her attention by the criminal investigative body or learned about in other circumstances;

15) to participate in the case hearing under ordinary means of appeal;

15^1) to contest court judgments;

16) to be compensated for expenses incurred in the criminal case and to get redress for damages caused as a result of any illegal actions of the criminal investigative body;

17) to have goods seized by the criminal investigative body as sources of evidence or goods submitted personally and that belong to him/her that were seized from the person who committed the action prohibited by criminal law returned and to receive the originals of any documents seized that belong to him/her;

18) to be represented by a defense counsel of his/her choosing and if unable to afford a defense counsel, to be assisted by a court-appointed attorney to provide the legal assistance guaranteed by the state.

(2) The injured party shall be obliged:

1) to appear when summoned by the criminal investigative body or by the court;

2) to make statements at the request of the criminal investigative body or the court;

3) at the request of the criminal investigative body, to submit objects, documents and other available sources of evidence and samples for a comparative investigation;

4) at the request of the criminal investigative body, to allow a corporal examination if a severe, especially severe or exceptionally severe crime was committed against him/her;

5) at the request of the criminal investigative body, to undergo an outpatient medical examination to verify the capacity to understand the circumstances important for the case and to make just statements on such circumstances, provided that there are valid grounds to question them;

6) to obey the legal orders of the representative of the criminal investigative body and of the chairperson of the court hearing;

7) to behave in an orderly fashion during the court hearing.

(3) An injured party shall also have other rights and obligations provided by this Code. An injured party may renounce his/her status as such at anytime during a criminal proceeding.

(4) An injured party shall exercise his/her rights and perform his/her obligations personally or if allowed by the law through representatives. Should an injured party be a juvenile or a person in a state of irresponsibility, his/her rights shall be exercised by his/her legal representatives in the manner duly set out in this Code.

(5) An injured party shall be examined under the conditions set hereunder for examining witnesses. An injured party refusing or deliberately evading giving testimony shall be criminally liable as specified art. 313 of the Criminal Code and an injured party making deliberately false testimony shall be liable as specified in art. 312 of the Criminal Code.

[Art.60 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.60 completed by Law No. 114-XVI dated 22.05.2008, in force as of 10.06.2008]
[Art.60 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.60 amended by Law No. 154-XVI dated 21.07.05, in force as of 23.09.05]

Article 61. Civil Party

(1) A civil party is an individual or a legal entity that files with a criminal investigative body or a court a civil action against a suspect/accused/defendant or persons who are materially liable for their actions provided that there are sufficient grounds to consider that the individual or the legal entity has suffered material or moral damage as a result of a crime. A civil action shall be heard in court as part of a criminal proceeding should the extent of the damage be unquestionable.

(2) A civil party shall be acknowledged by an order of the criminal investigative body or by a ruling of the court.

(3) Following the acknowledgment of a civil party, should it be ascertained that the civil action was filed by an improper person or that, due to other reasons, there are no grounds to acknowledge the person as a civil party, the criminal investigative body in a reasoned decision shall discontinue the person's participation as a civil party.

Article 62. Rights and Obligations of a Civil Party

(1) A civil party shall have the following rights to support his/her complaint:

1) to provide explanations of the complaint filed;

2) to submit other materials supporting his/her complaint;

3) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator or court secretary;

4) to submit requests, in particular in order to secure the civil action filed;

5) to object to the actions of the criminal investigative body or the court and to request that his/her objections be included in the transcript of the respective action;

6) to review the transcripts of the procedural actions he/she participated in and to request their completion or the inclusion of his/her objections in the respective transcripts;

7) to review the materials in the criminal case file as of the moment of completion of the criminal investigation and to copy out any information from the case file related to the civil action;

8) to participate in the hearings, including the examination of the case materials related to his/her complaint;

9) to speak on the civil action during the judicial arguments;

10) to be informed by a criminal investigative body or the court about all the decisions issued related to his/her rights and interests, to get free of charge at his/her request copies of these decisions and a copy of the sentence, decision or any other final court judgment;

11) to file complaints against the actions and decisions of a criminal investigative body and to contest the judgment of the court related to the civil action;

12) to withdraw requests for appeal/cassation filed by him/her or his/her representative;

13) to object to the complaints of other participants in the proceeding and to express in the hearing his/her opinion on requests filed by other participants in the proceeding;

14) to participate in the case hearing under the ordinary means of appeal;

15) to object to any illegal actions of another party in the proceeding;

16) to have a representative and to terminate his/her authority;

17) to object to the actions of the chairperson of the court hearing;

18) to renounce the civil action at any stage of the criminal proceeding, if allowed by law;

19) to be compensated for expenses incurred in the criminal case and to get redress for damages caused as a result of any illegal action of the criminal investigative body or the court;

20) to have any goods seized by the criminal investigative body or the court as sources of evidence, any goods submitted personally, and goods belonging to him/her that were seized from the person who committed the action prohibited by criminal law returned and to receive the originals of any documents seized belonging to him/her.

(2) A civil party shall be obliged:

1) to appear when summoned by a criminal investigative body or the court;

2) to provide copies of the civil action for all civilly liable parties participating in the proceeding;

3) at the request of a criminal investigative body or the court, to submit objects, documents and other available sources of evidence and samples for comparative investigation;

4) to obey the legal orders of the representative of a criminal investigative body and of the chairperson of the court hearing;

5) to behave in an orderly fashion during a court hearing.

(3) A civil party shall have other rights and obligations provided by this Code.

(4) A civil party shall be summoned and heard as a witness.

(5) A civil party shall exercise his/her rights personally or, as the case may be, through a representative. The rights of a juvenile shall be exercised by his/her legal representative in the manner duly set out in this Code.

[Art.62 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter II
THE DEFENSE

Article 63. Suspect

(1) A suspect is a person whom certain available evidence indicates committed a crime prior to charges being brought. A person may be designated as a suspect in one of the following procedures depending on the circumstances:

1) the transcript of the detention;

2) the order or ruling on applying a preventive measure that does not deprive liberty;

3) an order designating the person as a suspect.

(2) A criminal investigative body shall not have the right to retain as a suspect:

1) a person detained for more than 72 hours;

2) a person subject to a preventive measure that does not deprive his/her liberty for more than 10 days from the moment the order for the preventive measure was brought to the notice of the person;

3) a person acknowledged as a suspect by an order for more than 3 months or with the consent of the Prosecutor General and his/her deputies for more than 6 months.

(3) Upon the elapse, as the case may be, of one of the terms set forth in para. (2), a criminal investigative body shall release a detained suspect or shall revoke in the manner duly set forth in the law the preventive measure applied to him/her and shall order either his/her discharge or accusation.

(4) A criminal investigative body or the court that ascertains that the suspicion of wrongdoing was invalid shall release a detained suspect or revoke the preventive measure applied to him/her prior to the expiry of the terms set forth in para. (2), and shall order his/her discharge.

(5) The status of suspect shall terminate from the moment of the release of the detainee, of the revocation of the preventive measure applied to him/her or, as the case may be, of the cancellation of the order acknowledging the person as a suspect and his/her discharge or from the moment the criminal investigative body charges the suspect with the crime by an order.

(6) If prior to the expiry of the terms set forth in para. (2) the suspect is not discharged or accused, the status of suspect shall terminate rightfully. If, however, sufficient evidence is subsequently collected, the rightful termination of the status of suspect due to the expiry of the terms set forth in para. (2) shall not prevent the bringing of charges against the person for the same act.

(7) Examining a person as a witness if certain evidence is available indicating that he/she committed a crime shall be prohibited.
[Art.63 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 64. Rights and Obligation of a Suspect

(1) A suspect shall have the right to defense. The criminal investigative body shall provide the suspect with the possibility to exercise his/her right to defense through all the means and methods allowed by the law.

(2) In line with the provisions of this Code, the suspect shall have the right:

1) to know what he/she is suspected of and immediately after detention or after being notified about a decision on a preventive measure or on his/her designation as a suspect to be informed in the presence of the defense counsel and in a language he/she understands about the essence of the suspicion and about the legal qualification of the criminal act the commission of which he/she is suspected of;

2) immediately after detention or after his/her designation as a suspect, to obtain written information about his/her rights under this article from the person who apprehended him/her including the right to keep silent and not to testify against himself/herself and to obtain from the criminal investigative body explanations of all his/her rights;

3) immediately after detention or after being notified about a decision on a preventive measure or on his/her designation as a suspect, to obtain from the criminal investigative body a copy of the respective decision or a copy of the transcript of his/her detention;

4) if detained to have confidential legal counseling by the defense counsel prior to his/her first interrogation as a suspect;

5) as of the moment he/she was informed about the decision on his/her designation as a suspect to be assisted by a defense counsel of his/her choosing and if he/she cannot afford a defense counsel to be assisted free of charge by a court-appointed attorney to provide the legal assistance guaranteed by the state and, if allowed by the law, to waive defense counsel and to defend himself/herself;

6) to confidentially visit his/her defense counsel with no limitation on the number and dates of such visits;

7) if he/she consents to interrogation, at his/her request to be interrogated in the presence of the defense counsel;

8) to confess to the commission of the crime he/she is suspected of and to sign a plea bargaining agreement;

9) to agree to a special procedure for a criminal investigation and case hearing in line with this Code if pleading guilty;

10) to give or to refuse to give testimony;

11) to take part in procedural actions independently or assisted by a defense counsel or to refuse taking part in such actions;

12) immediately, however within not more than 6 hours to inform through the criminal investigative body his/her relatives or any other person about the place of his/her detention;

13) to submit documents and other sources of evidence to be part of the criminal case file;

14) to request the recusal of the person conducting the criminal investigation or of the investigative judge, interpreter or translator;

15) to submit requests, including requests for independent medical assistance;

16) to review the transcripts of the procedural actions conducted with his/her participation and to question their correctness and to request their completion including information that he/she thinks must be mentioned;

17) to be informed by the criminal investigative body about all decisions related to his/her rights and interests and to get at his/her request copies of such decisions;

18) to object to actions of the criminal investigative body and to request that his/her objections be included in the transcript of the respective procedural action;

19) to contest in the manner duly set forth in the law the actions and decisions of the criminal investigative body;

20) to withdraw any requests filed personally or by his/her defense counsel;

21) to reconcile with the injured party;

22) to request and to obtain redress for damage caused by any illegal actions of the criminal investigative body or the court;

23) to be rehabilitated if the suspicion was invalid.

(3) The exercise or waiver by a suspect of the rights granted to him/her may not be interpreted to his/her detriment and may not have unfavorable consequences for him/her. A suspect shall not be liable for his/her testimony unless he/she makes a deliberately false accusation that the crime was committed by a person who in fact is not related to the commission of the crime.

(4) A suspect shall be obliged:

1) to appear when summoned by a criminal investigative body or the court;

2) if detained, at the request of the criminal investigative body to allow a corporal examination and a corporal search;

3) at the request of the criminal investigative body, to allow a medical examination, fingerprint analysis or the taking of samples of blood or of other bodily fluids;

4) at the request of the criminal investigative body to be examined by an expert;

5) to obey the legal orders of the official conducting the criminal investigation.

(5) A suspect shall also have other rights and obligations provided by this Code.

(6) The rights of a juvenile suspect shall be exercised also by his/her legal representative in line with the provisions hereunder.

[Art.64 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.64 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 65. Accused or Defendant

(1) An accused person is an individual against whom charges have been filed in line with the provisions of this Code.

(2) An accused person whose case has gone to court is called a defendant.

(3) A person whose sentence has become final is:
1) convicted if the sentence is integrally or partially a conviction;
2) acquitted if the sentence is integrally an acquittal.

(4) A person shall not have the status of an accused person as of the moment when the criminal proceedings are discontinued or when he/she is discharged.

Article 66. Rights and Obligations of the Accused or the Defendant

(1) The accused or, as the case may be, the defendant shall have the right to defense. The criminal investigative body or, as the case may be, the court shall provide the accused or the defendant with the possibility to exercise his/her right to defense by all means and methods allowed by the law.

(2) The accused or the defendant, in line with the provisions of this Code, shall have the right:
1) to know what he/she is accused of and upon being charged or immediately after detention or arrest or after being notified about an order for a preventive measure to obtain from the criminal investigative body a copy of the charges;
2) immediately after detention or after indictment to obtain from a criminal investigative body written information about his/her rights under this article, including the right to keep silent and not to testify against himself/herself, and the explanations of all his/her rights;
3) if detained, to have legal counseling by the defense counsel prior to his/her first interrogation as an accused;
4) if detained, to be brought immediately but not later than within 72 hours before a judge to be tried within a reasonable timeframe or released during the proceeding;
5) as of the moment of being charged, to be assisted by a defense counsel selected by him/her, and if he/she cannot afford a defense counsel, to be assisted free of charge by a court-appointed attorney to provide the legal assistance guaranteed by the state and, if allowed by law, to waive the defense counsel and to defend himself/herself;
6) to confidentially visit his/her defense counsel with no limitation on the number and dates of such visits;
7) if he/she consents to interrogation, at his/her request to be interrogated in the presence of the defense counsel;
8) to give or to refuse to give testimony;
9) to provide or to refuse to provide explanations about the charges brought against him/her;
10) to admit the charges brought and to sign a plea bargaining agreement;
11) to agree to a special procedure in the criminal investigation and case hearing in line with this Code if pleading guilty;
12) to take part in procedural actions independently or assisted by a defense counsel or to refuse to take part in such actions;
13) to inform through the criminal investigative body his/her relatives or any other person at his/her suggestion about the place of his/her arrest;
14) to prepare materials for a criminal case;

15) to submit the documents and other sources of evidence to be part of the criminal case file and to be presented in the hearing;

16) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator, court secretary;

17) to request the examination of prosecution witnesses and to insist on summoning defense witnesses under the same conditions as prosecution witnesses;

18) to submit requests, including requests for independent medical assistance;

19) to object to actions of the criminal investigative body and to request that his/her objections be included in the transcript of the respective procedural action;

20) to review the transcripts of the procedural actions conducted with his/her participation and to question the correctness of such transcripts and to request their completion including information that he/she thinks must be mentioned;

21) to review materials transmitted to the court to confirm his/her arrest;

22) upon completion of the criminal investigation, to review all case materials and copy out any necessary data and to submit requests for supplementing the criminal investigation;

23) to participate in the case hearing in the first instance and in an appeal;

24) to speak during judicial arguments if unassisted by a defense counsel;

25) to have the closing statement;

26) to be informed during a criminal investigation about all the decisions related to his/her rights and interests and at his/her request to get copies of the decisions and copies of orders on preventive measures and other procedural constraint measures; copies of the indictment or any other act completing the criminal investigation; copies of civil actions, sentences or appeal and cassation requests; the decision by which the sentence becomes final or the final judgment of the court that heard the case under extraordinary means of appeal;

27) to contest, in the manner duly set out in the law, the actions and decisions of the criminal investigative body or the court including the sentence or decision of the court that heard the case under the ordinary means of appeal;

28) to withdraw any complaint filed personally or by the defense counsel in his/her interests;

29) to reconcile with the injured party in the manner set out in this Code;

30) to object to the complaints of other participants in the criminal proceeding brought to his/her notice by the criminal investigative body or that he/she learned about through other means;

31) to express in the hearing his/her opinion on the requests and proposals of other parties in the proceeding and on the issues settled by the court;

32) to object to any illegal actions of other participants in the proceeding;

33) to object to the actions of the chairperson of the hearing;

34) to request and to obtain redress for damage caused by any illegal actions of the criminal investigative body or the court.

(3) If the charges brought are invalid, the accused or, as the case may be, the defendant shall have the right to rehabilitation.

(4) The exercise or waiver by the accused or the defendant of the rights granted to him/her may not be interpreted to his/her detriment and may not have unfavorable consequences for him/her. The accused or the defendant shall not be liable for his/her testimony unless he/she makes a deliberately false accusation that the crime was committed by a person who in fact was not related to the commission of the crime, and if he/she makes false testimony under oath.

(5) The accused or, as the case may be, the defendant shall be obliged:

1) to appear when summoned by the criminal investigative body or the court;

2) if detained, at the request of the criminal investigative body to allow a corporal examination and a bodily search;

3) at the request of the criminal investigative body, to unconditionally allow a medical examination, a fingerprint analysis or the taking of samples of blood or other bodily fluids;

4) at the request of the criminal investigative body, to be examined by an expert;

5) to obey the legal orders of the representative of the criminal investigative body or the chairperson of the hearing;

6) to behave in an orderly fashion during the court hearing and not to leave the courtroom without the permission of the chairperson of the hearing.

(6) The accused or the defendant shall also have other rights and obligations provided hereunder.

(7) The rights of an accused juvenile or a juvenile defendant shall be exercised also by his/her legal representative in line with the provisions hereunder.

[Art.66 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.66 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 67. Defense Counsel

(1) A defense counsel is a person who during a criminal proceeding represents the interests of the suspect/accused/defendant and provides him/her with legal assistance through all the means and methods allowed by the law. A defense counsel may not be associated through state bodies or officials with the person whose interests he/she defends and with the nature of the criminal case heard with his/her participation.

(2) The following persons may participate in a criminal proceeding as a defense counsel:

1) an attorney;

2) other persons provided by law with the authority of a defense counsel;

3) an attorney abroad if assisted by the person specified in point 1).

(3) The persons specified in para. (2) shall have the status of defense counsel as of the moment they commit themselves to protect the interests of the respective person upon his/her consent. Upon accepting the commitment to protect those interests, the defense counsel shall inform the body carrying out the criminal investigation or the court thereof.

(3^1) A court-appointed attorney providing the legal assistance guaranteed by the state shall obtain the status of defense counsel at the moment when the Coordinator of the Regional Office of the National Council for Legal Assistance Guaranteed by the State issues a decision on the provision of qualified legal assistance. The decision on the provision of qualified legal assistance, when necessary, shall be brought to the notice of the solicitor, the criminal investigative body or the court.

(4) An attorney providing legal assistance to the suspect or the defendant upon his/her detention or arrest shall be construed as the defense counsel for this period of time and, upon their consent, may continue acting as a defense counsel until the proceedings in the respective case are completed or until another person specified in para. (2) is involved in the proceeding.

(5) A defense counsel may not perform his/her duties and may not be appointed by the Coordinator of the Regional Office of the National Council for Legal Assistance Guaranteed by the State if he/she:

1) does not meet the conditions set forth in para. (2);

2) may not be a defense counsel in line with restrictions provided by the law or a sentence of the court;

3) provided or provides legal assistance to a person whose interests conflict with the interests of the person he/she is defending;

4) is related to or supervised by a person whose interests conflict with the interests of the person he/she is defending;

5) has earlier participated in the case as a judge, prosecutor, person who conducted the criminal investigation, expert, specialist, interpreter, translator or witness.

(6) The defense counsel shall terminate his/her participation in a case if:

1) the person he/she is defending waives the right to a defense counsel or terminates the contract with him/her or suspends his/her authority;

2) he/she has no authority to further participate in the case;

3) the prosecutor or the court removes him/her from participation in the case due to certain circumstances excluding his/her participation as a defense counsel or at his/her request due to other justified reasons;

4) the prosecutor or the court accepts the request of the suspect/accused/defendant to waive the right to a defense counsel;

5) a foreign attorney resigns his/her commission;

6) the prosecutor or the court accepts the waiver of defense declared by the person defended by a court-appointed attorney providing the legal assistance guaranteed by the state.

(7) If the prosecutor or the court rejects the waiver of defense by the suspect/accused/defendant, the court-appointed attorney providing the legal assistance guaranteed by the state may not terminate his/her participation in the case.

[Art.67 amended by the Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.67 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 68. Rights and Obligations of the Defense Counsel

(1) The defense counsel, depending on the procedural capacity of the person whose interests he/she is defending, shall have the right:

1) to know the essence of the suspicion or the charge;

2) at the suggestion of the respective body, to participate in the procedural actions performed by the criminal investigative body and in all procedural actions as requested by him/her;

3) to explain his/her rights to the person defended and to call the attention of the person performing procedural actions to violations of law committed by him/her;

4) to prepare the materials for the respective case;

5) to submit documents and other sources of evidence as part of the criminal case file to be presented in the court hearing;

6) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator or court secretary;

7) to file requests;

8) to object to the actions of the criminal investigative body and to request that his/her objections be included in the respective transcript;

9) to review the transcripts of actions performed with his/her participation and to request their completion or the inclusion of his/her objections into the respective transcripts;

10) to review the materials of the criminal case as of the moment of completion of the criminal investigation, to copy out any data from the case file and to make copies;

11) to participate in court hearings in the first instance, in an appeal or cassation and in a case hearing under extraordinary means of appeal;

12) to plead during judicial arguments;

13) at his/her request, to get free copies of judgments related to the rights and interests of the person he/she is defending;

14) to submit complaints about the actions and decisions of the criminal investigative body and to contest the sentence or any other final judgment issued by the court on the respective case;

15) to participate in any reconciliation with the opposing party provided that the person he/she is defending takes part in the reconciliation;

16) to object to the complaints of other participants in the criminal proceeding brought to his/her notice by the criminal investigative body or that he/she learned about through other means and to express in the hearing his/her opinion on the requests and proposals made by other participants in the proceeding and on issues settled by the court;

17) to object to the illegal actions of other participants in the proceeding;

18) to object to the actions of the chairperson of the court hearing;

19) to be compensated for expenses incurred in the criminal case by the person whose interests he/she defends or in the cases provided by law from the state budget;

20) to get redress for damage caused by any illegal actions of the criminal investigative body or the court.

(2), In order to clarify circumstances that deny the accusation, exclude the criminal liability of the person he/she is defending or mitigate the punishment or procedural constraint measures and in order to provide the required legal assistance in addition to the rights set forth in para. (1), the defense counsel for the suspect/accused/defendant shall also have the following rights:

1) to visit the suspect/accused/defendant with no limitation on the number and duration of such visits;

2) to participate in any procedural action involving the person he/she is defending if requested by the person defended or by the defense counsel;

3) to review the materials submitted to the court by the criminal investigative body to confirm the detention or the need for arrest.

(3) The defense counsel may not undertake any actions against the interests of the person defended and may not prevent him/her from exercising his/her rights. The defense counsel may not, contrary to the position of the defendant admit his/her participation in the crime and his/her guilt for the commission of the crime. The defense counsel may not disclose any information communicated to him/her in the course of defense if such information can be used to the detriment of the defendant.

(4) An attorney may not unjustifiably renounce defense. An attorney may not independently terminate his/her authority as defense counsel or hinder the invitation of any other defense counsel to act or his/her participation in this case. The defense counsel may not transfer to any other person his/her authority to participate in the respective case.

(5) The defense counsel may not, without the consent of the defendant perform the following actions:

1) declare him/her guilty of the commission of the crime;

2) reconcile the person defended with the opposing party;
3) admit a civil action;
4) withdraw the complaints of the defendant;
5) withdraw his/her requests for appeal or cassation for a conviction.

(6) The defense counsel shall be obliged:
1) to appear when summoned by the criminal investigative body or the court;
2) to obey the legal orders of the representative of the criminal investigative body and the chairperson of the court hearing;
3) not to leave the courtroom prior to adjournment and without the permission of the chairperson of the court hearing;
4) to behave in an orderly fashion during a court hearing.

(7) The defense counsel shall also have other rights and obligations provided hereunder.

Article 69. Mandatory Participation of the Defense Counsel

(1) The participation of the defense counsel in a criminal proceeding shall be mandatory if:
1) it is requested by the suspect/accused/defendant;
2) the suspect/accused/defendant cannot defend himself/herself because he/she is dumb, deaf, blind or has other fundamental disorders of speech, hearing, sight or other physical or mental deficiencies;
3) the suspect/accused/defendant does not speak or insufficiently speaks the language of the criminal proceeding;
4) the suspect/accused/defendant is a juvenile;
5) the suspect/accused/defendant is an active duty serviceperson;
6) the suspect/accused/defendant is charged with a severe, especially severe or exceptionally severe crime;
7) the suspect/accused/defendant is under arrest as a preventive measure or is ordered by the court to undergo an in-patient psychiatric examination;
8) the interests of the suspect/accused/defendant are contradictory and at least one of them is assisted by a defense counsel;
9) the defense counsel of the injured party or of the civil party participates in the respective case;
10) the interests of justice require his/her participation in the court hearing in the first instance, during an appeal or cassation, and in a hearing under extraordinary means of appeal;
11) the criminal proceeding involves a person in a state of irresponsibility who is charged with the commission of prejudicial acts or a person who developed a mental disorder after the commission of such acts;
12) the criminal proceeding is focused on the rehabilitation of the reputation of a person deceased at the time of the case hearing.

(2) The participation of the defense counsel in a criminal proceeding shall be mandatory when:
1) the suspect/accused/defendant requests his/her participation in the instance set forth in para. (1) point 1);
2) the suspect/accused/defendant is informed about the decision of the criminal investigative body on:
a) detention, preventive measures or an accusation in the cases set forth in para. (1) points 2)-6);

b) a court order to undergo an in-patient psychiatric examination as set forth in para. (1) point 7);

c) exercising the preventive measure of arrest in the case set forth in para. (1) point 7);

3) the suspect/accused/defendant is deceased and a rehabilitation request was filed by the relatives or other persons in the case set forth in para. (1) point 12).

(3) The mandatory participation of a defense counsel in a criminal proceeding shall be secured by the Coordinator of the Regional Office of the National Council for Legal Assistance Guaranteed by the State, upon the request of the criminal investigative body or the court.

[Art.69 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 70. Acceptance, Appointment and Replacement of the Defense Counsel and Confirmation of His/Her Capacity and Authority

(1) The persons specified in art. 67 par. (2) shall participate in criminal proceedings as defense counsels:

1) upon the invitation of the suspect/accused/defendant or a legal representative thereof and upon the request of other persons with the consent of the person whose interests are to be defended;

2) upon appointment by the Coordinator of the Regional Office of the National Council for the Legal Assistance Guaranteed by the State if requests or inquiries for qualified legal assistance are filed.

(2) Neither the criminal investigative body nor the court may recommend inviting a specific defense counsel.

(3) The criminal investigative body or the court shall request the appointment of an attorney to provide the legal assistance guaranteed by the state by the Coordinator of the Regional Office of the National Council for Legal Assistance Guaranteed by the State:

1) at the request of the suspect/accused/defendant;

2) if the participation of defense counsel in the criminal proceeding is mandatory and the suspect/accused/defendant has not selected a defense counsel.

(4) The criminal investigative body or the court shall request that the attorney's office replace the defense counsel selected or that the Regional Office of the National Council for the Legal Assistance Guaranteed by the State replace the attorney providing the legal assistance guaranteed by the state in the following circumstances during a criminal proceeding:

1) if the selected defense counsel cannot appear if the suspect/accused is detained, charged or interrogated;

2) if the selected defense counsel cannot participate in the proceeding for five days from the moment of his/her notification;

3) if the prosecutor or the court ascertains that the attorney providing the legal assistance guaranteed by the state is unable to ensure efficient legal assistance for the suspect/accused/ defendant.

(5) In the cases set forth in para. (3) point 2) and para. (4) points 2) and 3), the criminal investigative body or the court may suggest that the suspect/accused/defendant invite another defense counsel.

(6) The suspect/accused/defendant may have several defense counsels. Procedures requiring the participation of a defense counsel may not be considered as performed and in violation of criminal procedural norms if not all of the defense counsels of the respective party participate.

(7) To confirm his/her capacity and authority, a defense counsel shall submit to the criminal investigative body or to the court:

1) a document confirming his/her membership in the bar;

2) the document permitting him/her to act as a defense counsel in line with the legislation of the Republic of Moldova;

3) the mandate of the attorney's office or any other document confirming his/her authority.

(8) A person wishing to participate in the respective case as defense counsel but who does not submit the documents confirming his/her capacity and authority shall not be allowed to participate in the criminal proceeding in the corresponding capacity and a justified decision shall be issued to that effect.

[Art.70 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.70 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 71. Waiver of Defense Counsel

(1) Waiving defense counsel means the suspect/accused/defendant has decided to personally defend himself/herself without any legal assistance from a defense counsel. The request for a waiver of defense counsel shall be attached to the case file.

(2) A waiver of defense counsel may be accepted by the prosecutor or the court only if it is voluntarily filed by the suspect/accused/defendant on his/her own initiative in the presence of the attorney providing the legal assistance guaranteed by the state. A waiver of defense counsel shall not be accepted if the reason for it is the inability to pay for legal assistance or if it is caused by other circumstances. The prosecutor or the court shall have the right to reject a waiver of defense counsel by the suspect/accused/defendant in the cases set forth in art. 69 para. (1) points 2)-12) and in other cases as required in the interests of justice. The prosecutor or the court shall determine whether the interests of justice require the mandatory assistance of a defense counsel depending on:

1) the complexity of the case;

2) the ability of the suspect/accused/defendant to defend himself/herself;

3) the seriousness of the act the commission of which the person is suspected or accused of and the punishment provided by the law for the commission of such an act.

(3) The prosecutor or the court shall decide in a reasoned judgment whether to accept or reject a waiver of defense counsel.

(4) Upon accepting a waiver of defense counsel, it shall be construed that the suspect/accused/defendant will defend himself/herself.

(5) The suspect/accused/defendant who waives defense counsel shall have the right at any time in the course of the criminal proceeding to revert to the issue of the waiver and to invite a defense counsel or to request that the court appoint an attorney to provide the legal assistance guaranteed by the state who shall be admitted as of the moment of being invited or requested.

[Art.71 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.71 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 72. Removal of Defense Counsel from a Criminal Proceeding

(1) The defense counsel may not participate in a criminal proceeding if at least one of the following circumstances exists:

1) if he/she is related to or is in any other relationship of personal dependence on a person who participated in the criminal investigation or trial of the case;

2) if he/she participated in this case as:

a) the person who conducted the criminal investigation;

b) the prosecutor who participated in the criminal proceeding;

c) the judge who heard the case;

d) the court secretary, interpreter, translator, specialist, expert or witness;

3) if he/she may not act as defense counsel based on the law or on a court sentence.

(2) An attorney providing the legal assistance guaranteed by the state shall be removed from a criminal proceeding if the defendant has justifiable grounds for questioning the competence or the good faith of the attorney and files a request for the removal of this defense counsel from the proceeding.

(3) A defense counsel may not participate in a criminal proceeding if he/she provided in the past or is currently providing legal assistance to a person whose interests contradict the interests of the person he/she is defending, and if he/she is related to or is in any other relationship of personal dependence on this person.

(4) A request for the removal from a criminal proceeding of the defense counsel shall be settled by the prosecutor or the court, and the respective decision shall not be subject to appeal.

[Art.72 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

[Art.72 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 73. Civilly Liable Party

(1) A civilly liable party is an individual or legal entity that based on the law or the civil action filed during a criminal proceeding may be materially liable for material damage caused by the acts of the accused/defendant.

(2) A civilly liable party shall be designated by a decision of the criminal investigative body or the court.

(3) Should it be stated following the designation of a civilly liable party that the respective person is not materially liable for the material damage caused by the accused/defendant or that due to other reasons there are no grounds for making the person civilly liable, the criminal investigative body or the court, in a reasoned decision, shall terminate the participation in the proceeding of the person as a civilly liable party.

Article 74. Rights and Obligations of a Civilly Liable Party

(1) In order to protect his/her interests related to a civil action filed against him/her, a civilly liable party, in line with this Code, shall have the following rights:

1) to give explanations on the civil action filed;

2) to submit documents and other sources of evidence to be attached to the criminal case file or to be presented in the court hearing;

3) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator or court secretary;

4) to submit requests;

5) to voluntarily transfer money to the deposit account of the court in order to secure a civil action;

6) to object to the actions of the criminal investigative body and to request that his/her objections be included in the transcript of the respective action;

7) to review the transcripts of the actions performed with his/her participation and to request their completion or the inclusion of his/her objections in the respective transcripts;

8) to review the materials of the criminal case file at the moment of completion of the criminal investigation and to copy out from the case file any data related to the civil action filed against him/her;

9) to participate in the court hearing including in the examination of evidence related to the civil action filed;

10) to plead, in the absence of his/her representative, during judicial arguments;

11) to be informed by the criminal investigative body and the court if he/she is not present at court hearings about all the judgments issued related to his/her rights and interests and at his/her request to get free copies of these judgments and of the sentence, decision or other final court judgments;

12) to submit complaints about the actions and decisions of the criminal investigative body and to contest court judgments related to the civil action filed;

13) to withdraw a request filed by him/her or his/her representative for an appeal;

14) to object to complaints of other participants in the proceeding and to express in the hearing his/her opinion on the requests and proposals made by other participants in the proceeding if such refer to the civil action filed against him/her;

15) to participate in the hearing of the case in the part related to the civil action against him/her under the ordinary means of appeal;

16) to object to the illegal actions of the other parties in a civil action proceeding;

17) to object to the actions of the chairperson of the court hearing;

18) to have a representative and to terminate his/her authority.

(2) A civilly liable party shall also have the right:

1) to admit the civil action at any stage of the criminal proceeding;

2) to request a refund of expenses incurred in the criminal case and redress for damage caused by the illegal actions of the criminal investigative body or the court;

3) to have goods seized by the criminal investigative body or the court as sources of evidence or goods submitted by him/her personally and original documents seized belonging to him/her returned.

(3) A civilly liable party shall be obliged:

1) to appear when summoned by the criminal investigative body or the court;

2) to obey the legal orders of the representative of the criminal investigative body or the court;

3) to behave in an orderly fashion during the court hearing.

(4) A civilly liable party may be summoned and examined as a witness.

(5) A civilly liable party shall also have other rights and obligations provided in this Code.

(6) A civilly liable party shall exercise his/her rights personally or, as the case may be, through a representative.

Chapter III
REPRESENTATIVES AND SUCCESSORS IN A CRIMINAL PROCEEDING

Article 75. Legal Capacity in a Criminal Proceeding

(1) All adults participating in a proceeding shall have the capacity to exercise their rights provided hereunder, except for those declared incapable in the manner set out in the law.

(2) Persons incapable in a criminal proceeding shall be:
1) those acknowledged as such in line with civil or criminal procedures;
2) an injured party, civil party who has not yet reached the age of 14.

(3) The court may designate as incapable in line with criminal procedures an injured party, a civil party, the suspect/accused/defendant or a civilly liable party who as a result of a temporary mental disorder or a mental disability is unable to exercise his/her rights and obligations independently.

(4) An injured party, a civil party a suspect/accused/defendant aged under 18 have limited legal capacity. Their ability to exercise their rights independently shall be limited in the cases provided hereunder.

(5) In a criminal proceeding, the legal capacity of an injured party, a civil party, a suspect/accused/defendant and of a civilly liable party shall be established at the moment the criminal proceeding is conducted.

(6) The criminal investigative body or the court shall acknowledge the legal capacity of a person who has reached majority or, as the case may be, the age of 14. In a criminal proceeding, the court shall acknowledge the capacity of the injured party, civil party, suspect/accused/defendant who has recovered his/her capacity to independently exercise his/her rights and obligations.

Article 76. Consequences of Incapacity or of Limited Legal Capacity

(1) An incapable person participating in a proceeding may not exercise his/her rights provided hereunder. Such rights shall be exercised by his/her legal representative.

(2) Should an incapable civil party have no legal representative, his/her participation in a criminal proceeding shall be suspended and the civil action shall not be heard provided that the prosecutor does not file a request in his/her interests against the accused/defendant or the person materially liable for the acts of the accused/defendant. Should a civilly liable party be incapable, his/her participation in the proceeding shall be suspended and the complaint filed against him/her shall not be heard.

(3) A participant with limited legal capacity in a proceeding without the consent of his/her legal representative shall not have the right to:
1) to withdraw the complaint on the prejudicial act committed against him/her;
2) to reconcile with the injured party/suspect/accused/defendant;

3) to acknowledge the civil action filed against him/her;
4) to renounce the civil action filed by him/her;
5) to withdraw the complaint filed in his/her interests.

Article 77. Legal Representatives of a Victim, Injured Party, Civil Party, Suspect, Accused, Defendant

(1) The legal representatives of the victim, injured party, civil party, suspect, accused, defendant shall be their parents, adoptive parents, tutors or custodians representing in a criminal proceeding the interests of a juvenile or incapable participants in a proceeding.

(2) Should the victim, injured party, suspect, accused, defendant have no legal representatives specified in para. (1), the criminal investigative body or the court shall appoint the tutelage authority as the legal representative.

(3) The criminal investigative body or, as the case may be, the court in a reasoned decision shall accept as legal representatives of an injured party, civil party, suspect, accused or defendant one of the parents, adoptive parents, tutors or custodians. Priority shall be given to the parent, tutor or custodian who is supported by all the rest of the legal representatives. Otherwise, the issue of acceptance of a legal representative shall be decided by the criminal investigative body or the court.

(4) The following persons shall not be admitted to a criminal proceeding as legal representatives:
1) of a victim, injured party or civil party - the person accused of causing by crime moral, physical or material damage to the injured party or material damage to a civil party;
2) of a suspect, accused, defendant - the person caused material, physical or moral damage by the crime imputed to the suspect/accused/defendant.

(5) If, following the acceptance of a person as a legal representative of a victim, injured party, civil party, suspect, accused, defendant it is ascertained that there are no grounds to maintain the person in this capacity, the criminal investigative body or the court shall terminate in a reasoned decision his/her participation in the proceeding as a legal representative. The status as legal representative shall cease once the injured party, civil party, suspect, accused, defendant has reached majority and has obtained full legal capacity.

Article 78. Rights and Obligations of the Legal Representative of a Victim, Injured Party, Civil Party, Suspect, Accused, Defendant

(1) The legal representative of a victim, injured party, civil party, suspect, accused, defendant, admitted to a criminal proceeding shall have, as the case may be, the right:
1) to know the essence of the suspicion/accusation;
2) to be notified if the person whose interests he/she represents is summoned by the criminal investigative body or the court and to accompany him/her there;
3) to visit, with no restrictions, the person whose interests he/she represents confidentially and with no limitation on the number and duration of such visits;
4) to participate in procedures performed at the suggestion of the criminal investigative body, in actions performed at his/her request and in the ones performed with the participation of the person whose interests he/she represents;
5) to provide explanations;

6) to submit documents and other sources of evidence to be attached to the criminal case file and presented during the court hearing;

7) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator, court secretary;

8) to file requests;

9) to object to the actions of the criminal investigative body and to request that his/her objections be included in the transcript of the respective procedural action;

10) to review the transcripts of the procedural actions he/she or the person whose interests he/she represents participated in, to question the correctness and accuracy of the respective transcripts, and to require their completion with data he/she thinks must be mentioned;

11) to review materials submitted to the court by the criminal investigative body to confirm the legality of and reasonableness for the detention of the person whose interests he/she represents;

12) upon the completion of the criminal investigation and in the case of the termination of the criminal investigation or the dismissal of a criminal case, to review all case materials and to copy out any necessary data;

13) to participate in the case hearing in the first instance and in an appeal;

14) to plead during judicial arguments, if the civil party or the defendant whose interests he/she represents has no representative or, as the case may be, defense counsel;

15) to be notified by the criminal investigative body or the court about a decision related to his/her rights and interests or those of the person he/she represents and, at his/her request, to get copies of such decisions;

16) to submit complaints in the manner duly set out in the law about the actions and decisions of the criminal investigative body and to contest the sentence or, as the case may be, the decision of the court that heard the case under extraordinary means of appeal;

17) to withdraw any of his/her complaints;

18) to object to the complaints filed against the person he/she represents if such were brought to his/her notice by the criminal investigative body or if he/she learned about such complaints in other circumstances;

19) to express his/her opinion in the court hearing about the requests and proposals of other participants in the proceeding and about the issues settled by the court;

20) to object to the illegal actions of other participants in the proceeding;

21) to object to the actions of the chairperson of the court hearing;

22) to invite defense counsel for the person he/she represents or, as the case may be, a representative and to suggest termination of their participation.

(2) The legal representative of a victim, injured party, civil party, suspect, accused or defendant, in line with this Code, shall also have the right:

1) to request redress for damage caused by the illegal actions of the criminal investigative body or the court and, except for the legal representative of a convicted person, a refund for the expenses incurred in the criminal case;

2) to have goods seized by the criminal investigative body as sources of evidence and original documents belonging to him/her returned.

(3) The legal representatives of an incapable victim, injured party, civil party and suspect during a criminal proceeding shall exercise their rights, except for those rights inalienable from the person him/herself.

(4) The legal representative of a victim, injured party, civil party, suspect, accused, defendant with limited legal capacity shall have the right:

1) upon the consent of the person he/she represents:

a) to request replacement of defense counsel;

b) to withdraw the complaint supported by the legal representative of the injured party;

2) to know the intentions of the person he/she represents:

a) to withdraw the complaint on the commission of the crime against him/her;

b) to reconcile with the opposing party;

c) to renounce the civil action filed by him/her or to admit the civil action filed against him/her;

d) to withdraw the complaint filed to defend his/her interests;

3) to accept or reject the intentions of the person he/she represents listed in point 2) of this paragraph.

(5) The legal representative of a victim, injured party, civil party, suspect, accused, defendant shall not have the right to undertake actions against the interests of the person he/she represents, including renouncing defense counsel for the accused/defendant.

(6) The legal representative of a victim, injured party, civil party, suspect, accused, defendant shall be obliged:

1) to submit to the criminal investigative body or the court documents confirming his/her authority as a legal representative;

2) to appear when summoned by the criminal investigative body or the court;

3) at the request of the criminal investigative body or the court to submit objects and documents;

4) to obey the legal orders of the representative of the criminal investigative body and the chairperson of the court hearing;

5) to behave in an orderly fashion during the court hearing.

(7) A legal representative may be summoned and examined as a witness in line with this Code.

(8) A legal representative shall also have other rights and obligations provided in this Code.

(9) A legal representative shall exercise his/her rights and obligations personally.

[Art.78 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 79. Representatives of a Victim, Injured Party, Civil Party, Civilly Liable Party

(1) The representatives of a victim, injured party, civil party, civilly liable party are the persons authorized by them to represent their interests in the course of a criminal proceeding.

(2) Attorneys and other persons authorized by a power of attorney of a participant in the respective proceeding may act as representatives of the victim, injured party, civil party, and civilly liable party. The manager of a legal entity upon presenting a certificate of employment may act as the representative of an entity acknowledged as a civil party or as a civilly liable party.

(3) If, following the acknowledgement of a person as the representative of the victim, injured party, civil party, civilly liable party it is stated that there are no grounds for maintaining the

person in that capacity, the criminal investigative body or the court shall terminate the participation of this person as a representative.

(4) An injured party, civil party, civilly liable party may have several representatives. However, the criminal investigative body or the court may limit the number of representatives participating in procedural actions or in the court hearing to one representative.

Article 80. Rights and Obligations of the Representative of a Victim, Injured Party, Civil Party, Civilly Liable Party

(1) The representative of a victim, injured party, civil party, civilly liable party shall exercise during a criminal proceeding his/her rights, except for those rights inalienable from his/her person. In order to protect the interests of the person represented, the representative, in line with this Code, shall have the right:

1) to know the essence of the accusation;

2) at the suggestion of the criminal investigative body, to participate in procedural actions if he/she appeared during the beginning of any procedural action performed with the participation of the person represented;

3) to request the recusal of the person conducting the criminal investigation or of the judge, prosecutor, expert, interpreter, translator, court secretary;

4) to submit documents and other sources of evidence to be attached to the criminal case file and presented in the court hearing;

5) to provide explanations and to file requests;

6) to object to actions of the criminal investigative body and to request that his/her objections be included in the transcript of the respective action;

7) to review the transcripts of the procedural actions he/she or the person represented participated in, to request their completion or the inclusion of his/her objections in the respective transcripts;

8) to review criminal case materials as of the moment of the completion of the criminal investigation, including in the case of a dismissal of the criminal case and to copy out from the case file any data related to the interests of the person represented;

9) to participate in court hearings under the same conditions in which the person represented participates;

10) to plead in judicial arguments in the place of the civil party or civilly liable party whose interests he/she represents;

11) to file complaints about the actions and decisions of the criminal investigative body and to contest court judgments within the limits of his/her competence;

12) with the consent of the person represented, to withdraw any requests filed by him/her;

13) to object to the complaints of other participants in the proceeding brought to his/her notice by the criminal investigative body or that he/she learned about in other circumstances if those complaints refer to the interests of the person represented;

14) to express in the court hearing his/her opinion on the requests and proposals made by other participants in the proceeding and on the issues settled by the court to the extent that they affect the interests of the person represented;

15) to object to the illegal actions of other participants in the proceeding to the extent that they affect the interests of the person represented;

16) to object to the illegal actions of the chairperson of the court hearing, if such refer to the interests of the person represented;

17) with the consent of the person represented, to invite another representative and to transfer his/her authority in a new power of attorney of the person represented.

(2) The representative of a victim, injured party, civil party, civilly liable party, if specified in the power of attorney, and the representative of a legal entity performing his/her duties ex officio shall have the right on behalf of the person represented and in the manner duly set out in this Code:

1) to withdraw a complaint on the commission of a crime against the person represented;
2) to conclude reconciliation transactions with the suspect/accused/defendant;
3) to renounce a complaint filed by the person represented;
4) to admit a complaint filed against the person represented;
5) based on a court judgment, to receive goods and money belonging to the person represented.

(3) The representative of an injured party, civil party or civilly liable party shall also have the right:

1) to collect compensation for damage caused by the illegal actions of the criminal investigation or the court;
2) to be informed by the criminal investigative body about decisions issued concerning the person represented and to get, upon his/her request, copies of such decisions.

(4) The representative of a victim, injured party, civil party, civilly liable party shall have no right to undertake actions contradicting the interests of the person represented.

(5) The representative of a victim, injured party, civil party, civilly liable party shall be obliged:

1) to follow the instructions of the person represented;
2) to submit to the criminal investigative body the documents confirming his/her authority;
3) to appear when summoned by the criminal investigative body or the court to represent the interests of the person represented;
4) at the request of the criminal investigative body or the court, to submit relevant objects and documents;
5) to obey the legal orders of the representative of the criminal investigative body and the chairperson of the court hearing;
6) to behave in an orderly fashion during the court hearing.

(6) The representative of a victim, injured party, civil party, civilly liable party shall also have other rights and obligations provided under this Code.

(7) The removal from a criminal proceeding of the representative of a victim, injured party, civil party, civilly liable party, witness shall be performed in line with the provisions on the removal of the defense counsel set forth in art. 72 duly applied.
[Art.80 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 81. Successor of an Injured Party or Civil Party

(1) In a criminal proceeding, the successor of an injured party or civil party shall be one of his/her close relatives willing to exercise the rights and obligations of the deceased party or of one who, as a result of the crime, has lost his/her capacity to consciously express his/her will.

The successor of an injured party or civil party may not be a close relative who is imputed to have caused material, physical or moral damage to the deceased or incapacitated party.

(2) Acknowledging a close relative as the successor of an injured party or civil party shall be decided by the prosecutor managing the criminal investigation or, as the case may be, by the court provided that the close relative requires this status. Should several relatives require the status of successor, the decision to select the successor shall be made by the prosecutor or by the court. If at the moment of the respective request there are not sufficient grounds to acknowledge a person as the successor of an injured party or civil party, the respective decision shall be made immediately upon confirmation of sufficient grounds.

(3) If following the acknowledgement of a person as the successor of an injured party or civil party it is stated that there are no grounds to maintain this status, the prosecutor or the court shall, in a reasoned decision, terminate his/her participation in the proceeding as the successor of the injured party or civil party. The close relative of the injured party or civil party acknowledged as his/her successor shall have the right to renounce his/her authority at anytime during a criminal proceeding.

(4) The successor of an injured party or civil party shall participate in a criminal proceeding instead of the injured party or civil party.

(5) The successor of an injured party or civil party may be summoned and examined as a witness.

(6) The successor of an injured party or civil party shall also have other rights and obligations provided in this Code.
[Art.81 amended by Law 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter IV
OTHER PERSONS PARTICIPATING IN A CRIMINAL PROCEEDING

Article 82. Procedural Assistant

(1) A procedural assistant is a person not personally interested in the case and not employed by the criminal investigative body who participates in the person's identification.

(2) A procedural assistant may be invited to participate in a re-enactment of the crime or in an experiment when his/her presence is required.

(3) The procedural assistant shall be obliged:

1) to appear when summoned by the body conducting the procedural action;

2) at the request of the body conducting the procedural action, to explain his/her relationships with the persons participating in the respective action;

3) to execute the instructions of the body conducting the procedural action;

4) not to leave the site of the procedural action without the permission of the respective body;

5) to sign the transcript of the procedural action he/she attended or to refuse to sign the respective transcript if his/her objections were not included;

6) not to disclose the circumstances and data learned as a result of the procedural action, including circumstances referring to the inviolability of private and family life and those considered a state, official or trade secret or another secret protected by law.

(4) The failure of the procedural assistant to execute his/her obligations implies the liability provided in the law.

(5) A procedural assistant shall have the right:

1) to attend the procedural action from its beginning till its end;

2) to review the transcript of the procedural action he/she attended;

3) during the procedural action and after reviewing the transcript thereof, to object to actions performed and described in the transcript and to have his/her objections included in the transcript of the respective action;

4) to sign only that part of the transcript of procedural action that refers to the circumstances perceived by him/her;

5) to receive a refund for expenses incurred due to his/her participation in the respective procedural action and redress for damage caused by the illegal actions of the criminal investigative body.

(6) A procedural assistant shall also have other rights and obligations provided in this Code.

Article 83. Court Secretary

(1) A court secretary in a hearing is an employee of the court who is not personally interested in the case and who prepares the transcript of the hearing and registers the statements of the parties and witnesses.

(2) A court secretary shall be obliged:

1) to be in the courtroom during the entire hearing in order to reflect in the transcript the course of the hearing and not to leave the hearing without the permission of the chairperson of the hearing;

2) to completely and accurately describe in the transcript the actions and judgments of the court; the requests, inquiries, objections, statements and explanations of all the persons participating in the hearing and other circumstances to be included in or, as the case may be, attached to the transcript;

3) to prepare the transcript of the hearing within the term set hereunder;

4) at the request of the court or of one of the parties in the proceeding, to explain his/her relationships with the persons participating in the proceeding on the respective case;

5) to strictly execute the instructions of the chairperson of the hearing;

6) not to disclose the information mentioned in a closed hearing.

(3) A court secretary shall be personally liable for the completeness and accuracy of the transcript of the hearing and in preparing the transcript he/she shall disregard the indications of any person regarding its contents.

(4) A court secretary's failure to execute his/her obligations implies the liability provided in the law.

(5) A court secretary shall also have other rights and obligations provided hereunder.

Article 84. Recusal of a Court Secretary

(1) A court secretary may not participate in a criminal case:

1) if there exists at least one of the circumstances provided in art. 33 duly applied;

2) if he/she has no right to act in such a capacity based on the law or a court sentence;

3) if he/she is related to or is personally dependent on or is employed by any of the parties;

4) if his/her incompetence is documented.

(2) The previous participation of a person as a court secretary in a hearing does not prevent his/her subsequent participation in the same capacity in the respective proceeding.

(3) The recusal of a court secretary shall be settled in the court hearing of the case, and the judgment on this issue shall not be subject to appeal.

Article 85. Interpreter/Translator

(1) An interpreter/translator is a person who can interpret sign language or who speaks the language necessary for translating, including legal terminology, who is not interested in the criminal case and agrees to participate in this capacity. An interpreter/translator shall be appointed by the criminal investigative body or the court in the cases provided hereunder. An interpreter/translator may be appointed from among persons proposed by the participants in the criminal proceeding.

(2) The judge, prosecutor, person conducting the criminal investigation, defense counsel, legal representatives, court secretary, expert, witness shall have no right to undertake the obligations of the interpreter/translator even if they speak and understand the languages and signs to be translated.

(3) Prior to beginning a procedural action, the criminal investigative body or the court shall establish the identity and competence of the interpreter/translator, his/her domicile and his/her relationships with the persons participating in the respective actions; shall explain his/her rights and obligations and shall warn him/her about criminal liability for deliberately incorrect translations or for evading his/her obligations. This fact shall be specified in the transcript and certified by the signature of the interpreter/translator.

(4) An interpreter/translator shall be obliged:

1) to appear when summoned by the criminal investigative body or the court;

2) to present, as a rule, to the criminal investigative body or the court a document confirming his/her qualifications as an interpreter/translator to objectively assess his/her own capacity to completely and accurately translate;

3) at the request of the criminal investigative body, the court or the parties involved, to explain his/her professional experience and relationships with the persons participating in the criminal proceeding;

4) to be present at the site of a procedural action, in a court hearing as long as it is necessary to interpret/translate and not to leave the site of the respective action without the permission of the body conducting it or, as the case may be, the courtroom without the permission of the chairperson of the court hearing;

5) to interpret/translate completely, accurately and at the appropriate moment;

6) to execute the legal requirements of the criminal investigative body or the court;

7) to behave in an orderly fashion during the court hearing;

8) to confirm with his/her signature the completeness and accuracy of the interpretation/ translation included in the transcript of any procedural action he/she participated in and the accuracy of the translation of documents handed over to the persons participating in the criminal proceeding;

9) not to disclose circumstances and data he/she learned as a result of a procedural action, including circumstances referring to the inviolability of private and family life and those considered a state, official or trade secret or another secret protected by law.

(5) An interpreter's/translator's failure to execute his/her obligation shall imply liability in line with the law. An interpreter/translator shall be liable in line with art. 312 of the Criminal Code for a deliberately incorrect translation.

(6) An interpreter/translator shall have the right:

1) to address questions to persons present to specify information in the translation;

2) to review the transcript of any procedural action he/she participated in and the statements of the persons examined in the hearing with his/her participation and to question the completeness and accuracy of the translation to be included in the transcript;

3) to require a refund for any expenses incurred due to his/her participation in the respective procedural action and redress for damage caused by the illegal actions of the criminal investigative body or the court;

4) to receive payment for services performed.

(7) An interpreter/translator shall also have other rights and obligations provided in this Code.

Article 86. Recusal of an Interpreter/Translator

(1) An interpreter/translator may not participate in a criminal proceeding:

1) if there is at least one of the circumstances set forth in art. 33 duly applied;

2) if he/she has no right to act in such a capacity based on the law or a court sentence;

3) if he/she is related to or personally dependent on the person conducting the criminal investigation or the judge;

4) if he/she is employed by any of the parties or by the specialist or expert;

5) if his/her incompetence is documented.

(2) The previous participation of a person as an interpreter/translator in a proceeding does not prevent his/her subsequent participation in the same capacity in this proceeding.

(3) The recusal of an interpreter/translator shall be settled by the criminal investigative body or the court, and the judgment on this issue shall not be subject to appeal.

Article 87. Specialist

(1) A specialist is a person invited to participate in a procedural action in cases provided by this Code who is not interested in the outcome of the criminal proceeding. The request of the criminal investigative body or the court inviting a specialist shall be mandatory for the manager of the enterprise, institution or organization where the specialist is employed.

(2) A specialist shall have special knowledge and skills sufficient to provide the necessary assistance to the criminal investigative body or to the court. The opinion expressed by a specialist shall not replace the conclusion of an expert.

(3) A specialist may not be appointed or otherwise involved in a criminal proceeding as a specialist in legal issues.

(4) Prior to beginning a procedural action that involves the participation of a specialist, the criminal investigative body or the court shall establish the identity and competence of the specialist, his/her domicile and his/her relationships with the persons participating in the respective action and shall explain his/her rights and obligations and shall warn him/her about the liability for refusing to perform or for evading his/her obligations. This fact shall be specified in the transcript of the respective action and certified by the signature of the specialist.

(5) A specialist shall be obliged:

1) to appear when summoned by the criminal investigative body or by the court;

2) to present to the criminal investigative body documents confirming his/her qualifications as a specialist, to objectively assess his/her own ability to provide the necessary assistance as a specialist;

3) at the request of the criminal investigative body, the court or the parties involved, to explain his/her knowledge in the area of specialization and his/her relationships with the persons participating in respective criminal case;

4) to be present at the site of a procedural action or in the court hearing as long as it is necessary to provide assistance as a specialist and not to leave the site of the respective procedural action or the hearing without permission;

5) to apply all his/her special knowledge and skills in order to provide assistance to the body conducting the procedural action regarding the discovery, registration or exclusion of evidence, the use of technical means and software, formulation of questions for an expert and to provide explanations on the issues related to his/her professional competence;

6) to provide technical and scientific or medical and forensic reports;

7) to obey the legal orders of the criminal investigative body;

8) to behave in an orderly fashion during the court hearing;

9) to confirm with his/her signature the course, contents and results of any procedural action he/she participated in and the completeness and accuracy of data in the transcript of the respective action;

10) not to disclose the circumstances and data he/she learned as a result of the procedural action including circumstances referring to the inviolability of private and family life and those considered a state, official or trade secret or another secret protected by law.

(6) A specialist shall be liable in line with art. 312 of the Criminal Code for a deliberately false conclusion.

(7) A specialist shall have the right:

1) with the permission of the criminal investigative body or the court to review the case materials and to address questions to the participants in the respective procedural action in order to formulate a proper conclusion and to request that the materials provided and data be completed;

2) to call the attention of those present to circumstances related to the discovery, seizure and storage of objects and documents and on the use of technical means and software and to provide explanations on issues related to his/her professional competence;

3) to object to the discovery, seizure and storage of objects and to have those objections included in the transcript of the respective procedural action and to provide other explanations based on his/her professional competence;

4) to review the transcripts of any procedural actions he/she participated in and to request their completion or the inclusion of his/her objections in the respective transcripts;

5) to request a refund for any expenses incurred in the criminal case and redress for damage caused by the illegal actions of the criminal investigative body or the court;

6) to receive payment for work completed.

(8) A specialist shall also have other rights and obligations provided in this Code.

(9) The recusal of a specialist shall be performed under the conditions provided for the recusal of an interpreter/translator in line with art. 33 duly applied.

Article 88. Expert

(1) An expert is a person appointed to conduct investigations in cases provided in this Code who is not interested in the outcome of the criminal case and who submits reports based on his/her applied special knowledge of science, technology, art, and other areas.

(2) An expert may not be appointed or otherwise involved in a criminal proceeding as an expert in legal issues.

(3) An expert shall be obliged:

1) to include in his/her report objective and justified conclusions on the questions addressed and to distinguish between conclusions based on software or specialized literature not verified by him/her;

2) to refuse to provide conclusions if the question addressed exceeds his/her special knowledge or if the materials provided are not sufficient to make conclusions and to notify the criminal investigative body or the court that requested the expertise in writing with an indication of the reasons for the refusal;

3) to appear when invited by a criminal investigative body or the court to be introduced to the participants in a procedural action and to provide explanations on his/her written conclusions;

4) to submit to the criminal investigative body or to the court documents confirming his/her special qualification, to objectively assess his/her own capacity and competence to provide respective conclusions;

5) at the request of the criminal investigative body or the court, and of the parties in the hearing to explain his/her professional experience and his/her relationships with the persons participating in the case;

6) if taking part in a procedural action, not to leave the site of its performance without the permission of the body conducting it and not to leave a court hearing without the permission of the chairperson of the court hearing;

7) to obey the legal orders of the criminal investigative body and the court;

8) to behave in an orderly fashion during the court hearing;

9) not to disclose any circumstances and data he/she learned as a result of offering his/her expertise or his/her participation in a closed hearing, including circumstances related

to the inviolability of private and family life, and those considered a state, official or trade secret or another secret protected by law.

(4) An expert shall be liable in line with art. 312 of the Criminal Code for making deliberately false conclusions.

(5) An expert shall have the right:

1) to review criminal case materials related to the subject of his/her expertise;

2) to request any additional materials necessary to make conclusions;

3) with the approval of the criminal investigative body or the court, to participate in examinations or other procedural actions related to the subject of his/her expertise and to address questions to the persons examined with his/her participation;

4) to provide conclusions on the questions addressed and the circumstances related to his/her competence that were stated following investigations performed;

5) to review the transcripts of procedural actions he/she participated in and to request that his/her objections be included in the respective transcript;

6) to request a refund for any expenses incurred due to his/her participation in a criminal proceeding for the respective case and redress for damage caused by the illegal actions of the criminal investigative body or the court;

7) to receive payment for work completed.

(6) The expert shall also have other rights and obligations provided in this Code.

Article 89. Recusal of an Expert

(1) A person may not act as an expert:

1) if there are circumstances provided in art. 33 duly applied;

2) if he/she is related to or is personally dependent on the person conducting the criminal investigation, the judge or any of the parties in the proceeding or, as the case may be, their representatives;

3) if he/she has no right to act in such a capacity based on the law or a court sentence;

4) if he/she conducted an inspection or other controlling actions, the results of which were grounds for the initiation of the criminal proceeding;

5) if he/she participated as a specialist in this proceeding except for the participation of a forensic medical expert in the examination of a body and the participation of specialists in an investigation of explosives and the dismantling of explosive devices;

6) if his/her incompetence is documented.

(2) The previous participation of a person as an expert does not prevent his/her subsequent participation in the same capacity in the same proceeding except for cases when expertise is required repeatedly due to doubts about the validity of the report's conclusions.

(3) The recusal of an expert shall be settled by the criminal investigative body or by the court, and the judgment on this issue shall not be subject to appeal.

Article 90. Witness

(1) A witness is a person summoned in this capacity by the criminal investigative body or by the court and who testifies in the manner duly provided for in the law as a witness. Persons

holding information on any circumstances to be confirmed in a case may be summoned as witnesses.

(2) No one may be forced to testify against his/her own interests or the interests of his/her close relatives.

(3) The following persons may not be summoned and examined as witnesses:

1) persons who due to physical or mental deficiencies are unable to correctly assess the circumstances important to the case and to precisely and correctly testify;

2) defense counsels, employees of the attorneys' offices involved to confirm certain data learned as a result of a request for legal assistance or of legal assistance provided;

3) persons holding certain information in the case due to their acting as representatives of the parties;

4) the judge, prosecutor, representative of the criminal investigative body, court secretary on circumstances learned by them through their procedural duties except for cases of participation in capturing a criminal in a flagrant crime; investigating evidence obtained through them, errors or abuses during the proceeding in the respective case; rehearing the case under the review procedure or restoring a missing case file;

5) a journalist to identify a person who provided information that is subject to non-disclosure of his/her name unless that person testifies voluntarily;

6) priests on circumstances learned when performing their duties;

7) family doctors and other persons who provide medical care on the private lives of the persons they serve.

(4) The persons mentioned in para. (3) points 5) and 7) shall be summoned and examined as witnesses only when such information is absolutely necessary to prevent or to solve especially serious or exceptionally serious crimes.

(5) Any persons knowing certain circumstances of the respective case due to their participation in a criminal proceeding as a defense counsel, a representative of an injured party, a civil party or a civilly liable party shall have the right in exceptional cases and with the consent of the person whose interests they represent to testify in his/her favor; however their testimony in these cases shall exclude their subsequent participation in the proceedings for this case.

(6) When necessary and in order to assess whether a person is able to accurately understand the circumstances important to the case and to testify correctly on such circumstances, the criminal investigative body and, at the request of the parties involved, also the court may invite an expert opinion.

(7) A witness shall be obliged:

1) to appear when summoned by the criminal investigative body or the court to testify and to participate in procedural actions;

2) to truthfully testify, to communicate all he/she knows about the respective case and to answer questions addressed to him/her; to confirm with his/her signature the accuracy of his/her testimony included in the transcript of the procedural action or attached thereto;

3) at the request of the criminal investigative body or of the court, to submit objects, documents, samples for a comparative investigation;

4) at the request of the criminal investigative body, to allow a corporal examination;

5) at the request of the criminal investigative body, to undergo an out-patient examination in order to verify his/her ability to correctly understand the circumstances in the respective case and to testify correctly if there are sound reasons for questioning such an ability;

6) to obey the legal orders of the representative of the criminal investigative body or the chairperson of the court hearing;

7) not to leave the courtroom without the permission of the chairperson of the court hearing;

8) to behave in an orderly fashion during the court hearing.

(8) The unjustified failure of a witness to execute his/her obligations implies the liability provided for in the law.

(9) Should a witness without justification not appear during a procedural action, the criminal investigative body or the court shall have the right to summon him/her by force.

(10) A witness refusing to testify or evading testifying shall be liable in line with art. 313 of the Criminal Code, while a witness deliberately making false statements shall be liable in line with art. 312 of the Criminal Code.

(11) The close relatives and the spouse, fiancé, fiancée of the suspect/accused/defendant shall not be obliged to testify against them. The criminal investigative body or the court shall be obliged to inform these persons of that right and they shall confirm with their signatures the fact of their notification.

(12) A witness shall have the right:

1) to know the case he/she is summoned for;

2) to request the recusal of the interpreter/translator participating in his/her examination;

3) to file requests;

4) to be informed about all available protective measures in line with the provisions of this Code and the Law on the Protection of an Injured Party, Witnesses and Other Persons Providing Assistance in a Criminal Proceeding;

5) to be informed about the possibility of testifying via a teleconference with his/her image and voice distorted so that he/she cannot be recognized;

6) to request that the criminal investigative body register identity information in a separate transcript to be stored in a sealed envelope to avoid the access of the accused to such data;

7) to refuse to testify, to submit objects, documents, samples for a comparative investigation or data if such can be used as evidence against him/her or his/her close relatives;

8) to testify in his/her native language or any other language he/she speaks; to review his/her recorded testimony and to request corrections to or the completion of his/her testimony;

9) while testifying, to use documents containing complex calculations, geographic names or other information difficult to remember and notes reflecting details that are hard to remember and to illustrate his/her statements with sketches or graphical drawings;

10) when participating in procedural actions as part of a criminal investigation, to be assisted by a defense counsel selected by him/her as a representative;

11) to personally write his/her statements in the transcript of an examination during a criminal investigation;

12) to request a refund for any expenses incurred in a criminal case and redress for damage caused by the illegal actions of the criminal investigative body or by the court;

13) to have the goods seized by the criminal investigative body or personally submitted by him/her as evidence returned and to receive any original documents seized belonging to him/her.

(13) A witness shall also have other rights and obligations provided in this Code.
[Art.90 amended by Law No. 387-XVI dated 08.12.2006, in force as of 31.12.2006]

Article 91. Legal Representative of a Juvenile Witness

(1) The legal representative of a juvenile witness shall have the right to know about the summoning by the criminal investigative body or the court of the person whose interests he/she represents, to accompany him/her and to attend any procedural actions involving him/her.

(2) During procedural actions, the legal representative of a juvenile witness shall have the right:

1) with the permission of the criminal investigative body or the court, to address questions, remarks, guidance to the person whose interests he/she represents;

2) to file requests;

3) to object to the actions of the criminal investigative body and to request that his/her objections be included in the respective transcript;

4) to object to the actions of the chairperson of the court hearing;

5) to review the transcripts of the procedural actions in which he/she and the person whose interests he/she represents participated and to request their completion or the inclusion of his/her objections in the respective transcripts;

6) to invite a defense counsel as a representative for the person whose interests he/she represents.

(3) During procedural actions, the legal representative of a juvenile witness shall be obliged:

1) to obey the legal orders of the representative of the criminal investigative body;

2) to behave in an orderly fashion during the court hearing.

Article 92. Attorney for a Witness

(1) A person summoned as a witness shall have the right to invite an attorney who will represent his/her interests before a criminal investigative body and will accompany him/her during procedural actions involving him/her.

(2) The attorney invited by a witness as his/her representative to the criminal investigative body upon confirming his/her capacity and authority shall have the right:

1) to know the criminal case for which the person he/she represents was summoned;

2) to attend any procedural action involving the person he/she represents;

3) to request in line with the law, the recusal of the interpreter/translator participating in the examination of the respective witness;

4) to file requests;

5) to explain to the witness his/her rights and to call the attention of the person performing the procedural action to violations of the law committed by him/her;

6) with the permission of the criminal investigative body, to address questions, remarks, guidance to the person whose interests he/she represents;

7) to object to the actions of the criminal investigative body and to request that his/her objections be included in the respective transcript;

8) to review the transcripts of the procedural actions he/she and the person whose interests he/she represents participated in and to request their completion or the inclusion of his/her objections in the transcripts.

(3) When participating in procedural actions, the attorney for the witness shall obey the legal orders of the representative of the criminal investigative body.

Title IV
EVIDENCE AND SOURCES OF EVIDENCE

Chapter I
GENERAL PROVISIONS

Article 93. Evidence

(1) Evidence is the actual data obtained in the manner set forth hereunder that are used to confirm the existence or nonexistence of a crime, to identify the perpetrator, to state the guilt and to determine other circumstances important for a just settlement of the case.

(2) In a criminal proceeding, the following actual data established through the following means shall be admitted in evidence:

1) the testimonies of the suspect/accused/defendant, injured party, civil party, civilly liable party, witnesses;

2) an expert's report;

3) material evidence;

4) transcripts of the criminal investigation or of judicial inquiry;

5) documents (including official ones);

6) audio and video recordings and pictures;

7) technical and scientific and medical and forensic reports.

(3) The actual data may be used in a criminal proceeding as evidence if they were obtained by the criminal investigative body or any other party in the proceeding in line with the provisions of this Code.

(4) The actual data obtained through operative investigative activities may be admitted in evidence only if they are managed and verified through the means specified in para. (2), in line with the provisions of procedural law observing the rights and liberties of the person or limiting certain rights and liberties upon authorization by the court.

Article 94. Data Not Admitted in Evidence

(1) In a criminal proceeding, data obtained in the following ways shall not be admitted in evidence and hence shall be excluded from the case file and may not be presented in court and may not substantiate a sentence or any other court judgments:

1) by violence, threats or any other means of coercion or by violating the rights and liberties of a person;

2) by violating the right to defense of a suspect/accused/defendant, injured party, witness;

3) by violating the right of participants in the proceeding to an interpreter/translator;

4) by a person having no right to perform procedural actions in the criminal case;

5) by a person knowing that he/she shall be subject to recusal;

6) from a source impossible to verify in the court hearing;

7) by methods contradicting scientific provisions;

8) by essential violation of the provisions of this Code by the criminal investigative body;

9) without being duly examined in the court hearing;

10) from a person who cannot recognize the respective document or object or cannot confirm its validity, origin or the circumstances of its receipt.

(2) When managing evidence, an essential violation of the provisions of this Code shall be a violation of the constitutional rights and liberties of a person or of the provisions of criminal procedural law by depriving participants in the proceeding of these rights or by limiting guaranteed rights that affect or could affect the authenticity of the information, document or object obtained.

(3) Data managed with the violations mentioned in para. (1) may be used as evidence to confirm the respective violations and the guilt of the persons who accepted them.

(4) Complaints filed during a proceeding and procedural judgments issued shall not be construed as evidence of any circumstance important for a respective case. They shall serve as evidence of the complaint filed and of a judgment issued.

(5) The provisions of paras. (1)-(4) shall be duly applied also to evidence obtained based on the specifications in paras. (1)-(4) unless the evidence is based on an independent source or would have inevitably been discovered.

[Art.94 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 95. Admissibility of Evidence

(1) Pertinent, conclusive and useful evidence managed in line with this Code shall be admissible.

(2) The admissibility of data as evidence shall be decided ex officio by the criminal investigative body or at the request of the parties involved or, as the case may be, by the court.

(3) Should the evidence be managed in line with the provisions hereunder, the inadmissibility of evidence shall be justified by the party requesting its rejection. Otherwise, the justification for its acceptance shall be the obligation of the party that collected it or of the party in whose favor the evidence was managed.

Article 96. Circumstances to be Proven in a Criminal Proceeding

(1) During a criminal proceeding and a criminal case hearing the following facts shall be proven:

1) those facts related to the existence of the elements of a crime and any circumstances excluding the criminal nature of an act;

2) circumstances provided in the law that either mitigate or aggravate the criminal liability of the perpetrator;

3) personal data characterizing the defendant or the victim;

4) the nature and extent of the damage caused by the crime;

5) the availability of goods to be used or that were used for the commission of the crime or that were obtained by crime irrespective of whom they have been transmitted to;

6) all the circumstances relevant to setting a punishment.

(2) The causes and environment that contributed to the commission of the crime shall be clarified concurrently with the circumstances to be proven in the criminal proceeding.

Article 97. Circumstances Confirmed by Certain Sources of Evidence

The following circumstances shall be confirmed in a criminal proceeding by certain sources of evidence:

1) the cause of death by a medical and forensic expert report;

2) the nature and degree of bodily injuries in cases of serious, especially serious and exceptionally serious crimes - by a medical and forensic expert report;

3) the incapacity of a person at the moment a prejudicial act is committed to be aware of his/her actions or inactions or to control them as a result of a mental disease, of a temporary mental disorder or of any other health disturbance or debility - by a psychiatric expert report;

4) the incapacity of a witness to perceive or to reproduce the circumstances to be confirmed in the criminal case as a result of a mental disease, of a temporary mental disorder or of any other health disturbance or debility - by a psychiatric expert report;

5) the injured party or the suspect/accused/defendant reaching a certain age if important for the case - by an affidavit confirming age, and in the case of incapacity related to age - by a medical and forensic or psychiatric expert report;

6) the criminal history of the suspect/accused/defendant - by an affidavit on his/her criminal record or, as the case may be, by copies of final court convictions.

Article 98. Facts and Circumstances Not to be Proven

The facts and circumstances not to be proven shall be:

1) common knowledge facts;

2) the correctness of modern, generally known research methods in science, technology, art, and handicrafts.

Chapter II
RULES OF EVIDENCE

Article 99. Rules of Evidence

(1) In a criminal proceeding, the rules of evidence consist of invoking, submitting, admitting and managing evidence in order to determine the circumstances important for the case.

(2) The evidence managed shall be verified and assessed by the criminal investigative body or by the court.

Article 100. Managing Evidence

(1) Managing evidence means using sources of evidence in a criminal proceeding implying their collection and verification in favor of or against the accused/defendant by the criminal investigative body ex officio or at the request of other participants in the proceeding, and by the court at the request of the parties involved using the evidentiary methods provided hereunder.

(2) In order to manage evidence, the defense counsel admitted to a criminal proceeding in the manner duly provided for in the law shall have the right:

1) to request and submit any objects, documents and information necessary to provide legal assistance, including discussions with individuals who consented to be examined in the manner duly set out in the law;

2) to request certificates, recommendations and other documents from various agencies and institutions that may issue such documents in the manner duly set out in the law;

3) to request for the benefit of legal assistance and with the consent of the person defended, the opinion of a specialist on issues requiring special knowledge.

(3) The suspect/accused/defendant, defense counsel, prosecutor, injured party, civil party, civilly liable party and representatives thereof, as well as other individuals or legal entities, shall have the right to submit oral or written information, objects and documents that may be used as sources of evidence.

(4) All the evidence managed in a criminal case shall be comprehensively, completely and objectively verified. Verifying evidence implies an analysis of the evidence managed, its comparison with other evidence, the management of new evidence and the verification of the source of the evidence in line with the provisions of this Code using the respective evidentiary methods.

Article 101. Assessing Evidence

(1) All evidence shall be assessed from the point of view of its pertinence, conclusiveness, usefulness and validity, and the entire body of evidence shall be assessed from the point of view of its comparability.

(2) A representative of the criminal investigative body or the judge shall assess the evidence based on his/her personal conviction formed as a result of a comprehensive and objective examination of its totality and in line with the law.

(3) No evidence shall have a pre-defined weight for a criminal investigative body or the court.

(4) The court shall base its judgment only on the evidence equally accessed and examined by all parties.

Chapter III
SOURCES OF EVIDENCE AND EVIDENTIARY METHODS

Section 1
Statements

Article 102. Statements

(1) Statements are oral or written information provided during a criminal proceeding by a person that are important for the just settlement of the case.

(2) Data conveyed by a person unable to specify the source of his/her information may not serve as a source of evidence.

Article 103. Statements of the Suspect/Accused/Defendant

(1) The statements of the suspect/accused/defendant are oral or written information provided by them during an interrogation in line with the provisions hereunder about the circumstances that served as a basis to acknowledge them in this capacity and about other case circumstances they are aware of.

(2) An admission of guilt by a person suspected or accused of the commission of a crime may substantiate a charge only to the extent it is confirmed by facts and circumstances resulting from the body of evidence available in the case.

(3) The suspect/accused/defendant may not be forced to testify against himself/herself or his/her close relatives or to admit his/her guilt and may not be made liable for his/her refusal to make such statements.

(4) Data conveyed by the suspect/accused/defendant may not be used as evidence if they are based on information from an unknown source. If the statements of the suspect/accused/defendant are based on hearsay, the persons who made the assertions shall also be heard.

Article 104. Interrogating the Suspect/Accused/Defendant

(1) The suspect/accused/defendant shall be interrogated only in the presence of a defense counsel or an attorney providing the legal assistance guaranteed by the state immediately upon the detention of the suspect or, as the case may be, when charges are pressed provided that he/she agreed to be interrogated. The interrogation of a tired suspect/accused/defendant, and during nighttime shall be prohibited unless the person requests an interrogation in an urgent case which shall be justified in the transcript of the interrogation.

(2) Prior to interrogating a suspect/accused, the person conducting the criminal investigation shall ask his/her last name and first name and date, month, year and place of birth and shall clarify his/her citizenship, education, military status, civil status and the persons he/she is supporting, his/her occupation and domicile and any other information necessary to identify the person in the respective case and shall ask if he/she agrees to make any statements on the incriminating suspicion or charge. The refusal of a suspect/accused to make statements shall be recorded in the transcript of the interrogation. If the suspect/accused agrees to make statements, the interrogating officer shall ask if he/she admits the imputed suspicion or charge and shall propose that he/she provide written explanations thereon. The incapacity to write or the refusal of the suspect/accused to personally write a statement shall be recorded in the transcript by the interrogating officer.

(3) The interrogation of a suspect/accused/defendant shall not begin without reading or reminding him/her of previously made statements. The suspect/accused/defendant may not

present or read a pre-written statement, but he/she may use his/her notes on details hard to remember.

(4) Each suspect/accused shall be interrogated separately. The interrogating officer shall undertake measures to prevent communication between suspects/accused persons summoned on the same case.

(5) The statements of a suspect/accused shall be recorded in the transcript of the interrogation prepared in line with the provisions in arts. 260 and 261.

(6) Should the suspect/accused/defendant revert to any of his/her previous statements or need to complete, rectify or clarify such statements, these facts shall be recorded and signed in line with the articles specified in para. (5).

(7) Should the suspect/accused fail to appear for an interrogation, the criminal investigative body shall conduct the interrogation at the place where he/she is located.
[Art.104 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 105. Testimony of a Witness and the Procedure for Examining a Witness

(1) The testimony of a witness shall be oral or written as made by him/her during an examination under this Code regarding any circumstances to be determined in the case including information about the suspect/accused/defendant, injured party and his/her relationship with them.

(2) The persons summoned as witnesses on the same case shall be examined separately in the absence of the other witnesses. The person conducting the criminal investigation shall undertake measures to prevent communication among witnesses summoned on the same case.

(3) Prior to examining a witness, the person conducting this procedural action shall establish his/her identity (last name, first name, age, domicile, occupation). Any doubts about the identity of the witness shall be recorded and clarified through another source of evidence.

(4) A deaf and dumb witness shall be examined with the participation of an interpreter who understands sign language. The participation of the interpreter shall be recorded in the transcript.

(5) Should the witness suffer from a mental or any other severe disease, he/she shall be examined with the consent and in the presence of a doctor.

(6) The person conducting the procedural action shall explain to the witness his/her rights and obligations set forth in art. 90 and shall warn him/her about his/her liability for refusing to testify or for deliberately making false testimony. This fact shall be recorded in the transcript of the examination.

(7) Every witness shall mandatorily be asked if he/she is the spouse or a close relative of any of the parties and about his/her relationship with the parties involved. Should he/she be the spouse or a close relative of the suspect/accused/defendant, the witness shall be informed about his/her right not to testify against them. The witness shall be asked if he/she agrees to make statements.

(8) Questions obviously aimed at insulting or humiliating a person shall be prohibited during the examination of a witness.

Article 106. Place for Examining a Witness

A witness shall be examined at the place of the criminal investigation or judicial inquiry. If necessary, a witness may be examined at the place of his/her location.

Article 107. Time and Duration for Examining a Witness

(1) As a rule, a witness shall be examined during daytime. In exceptional cases, the examination may be conducted at nighttime. The reasons for a nighttime examination shall be indicated in the respective transcript.

(2) The duration of a continuous examination of a witness may not exceed four hours, while the total duration of an examination on the same day may not exceed eight hours.

Article 108. Oath of a Witness

(1) Prior to being examined, a witness shall take the following oath: "I swear to tell the truth and not to withhold anything I know."

(2) A witness who due to reasons of conscience or belief will not take the oath shall make the following statement: "I commit myself to tell the truth and not to hide anything I know."

(3) After taking the oath or making the statement, a witness shall be warned about criminal liability for false testimony.

(4) After taking the oath or making the statement and receiving the warning on criminal liability for false testimony, a remark to the effect that they were accomplished shall be made in the transcript and confirmed by the signature of the witness.
[Art.108 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 109. Procedure for Examining a Witness

(1) A witness shall be informed about the subject matter of the case and shall be asked to testify on the acts and circumstances he/she knows that are related to the case.

(2) Following his/her testimony, a witness may be asked questions on the acts and circumstances to be determined in the case and on the way he/she learned the information testified. Suggestive questions or questions not related to the evidence or that are obviously aimed at insulting or humiliating the witness shall not be admitted.

(3) Should the presence of a witness in a case hearing be impossible due to his/her departure abroad or to other justifiable reasons, and to reduce or eliminate the exposure of a witness to an evident risk or to reduce the possible revictimization of the witness, the prosecutor may require the examination of a witness by the investigative judge providing the suspect/accused, their defense counsel, the injured party and the prosecutor with the possibility to address questions to a witness so examined.

(4) The testimony of a witness shall be recorded in line with arts. 260 and 261 or, as the case may be, in line with arts. 336 and 337.
[Art.109 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.109 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 110. Special Methods for Examining a Witness and for His/Her Protection

(1) Should there be sound reasons to consider that the life, corporal integrity or freedom of a witness or of his/her close relatives are in danger due to his/her testimony in a criminal case on a serious, especially serious or exceptionally serious crime, the court may allow that the respective witness be examined via the technical means provided in this article without being physically present at the venue of the criminal investigative body or in the courtroom.

(2) Examining a witness in line with para. (1) shall be based on a reasoned order by the investigative judge or, as the case may be, by the court ex officio or at the justified request of the prosecutor, attorney, respective witness or any other interested person.

(3) A witness examined in line with this article shall be allowed to convey information about his/her identity that is not genuine. Information on the actual identity of the witness shall be recorded by the investigative judge in a separate transcript kept in the respective court in a sealed envelope under conditions of maximum confidentiality.

(4) A witness testifying in line with this article shall be assisted by the respective investigative judge.

(5) A witness may be examined via a closed teleconference with his/her image and voice distorted so that he/she is not recognized.

(6) The accused/defendant and his/her defense counsel and the injured party shall be provided with the opportunity to address questions to a witness examined under para. (5).

(7) The testimony of a witness examined in line with this article shall be recorded via technical video means and recorded in the transcript prepared in line with the provisions of arts. 260 and 261. The video tapes with the testimony of the witness shall be sealed with the court seal and stored in the original in the court along with a copy of the transcript of the testimony.

(8) The testimony of a witness examined in line with this article may be used as a source of evidence only to the extent it is confirmed by other evidence.

(9) Undercover agents who are civilians may be examined as witnesses under this article.
[Art.110 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 111. Statements and Examination of the Injured Party

(1) The injured party shall be examined about the criminal act and other circumstances important to the case.

(2) The statements and the examination of the injured party shall be conducted in line with the provisions relating to the testimony and examination of witnesses duly applied.

(3) In specific cases when the intimate life of the injured party may be affected, the defendant accused of the commission of a sexual crime and his/her defense counsel shall be prohibited from offering evidence about the alleged character or personal history of the victim, except in cases when the court permits. The defendant may address to the chairperson of the court hearing a request on the submission of evidence on the alleged character and personal history of the injured party. This request shall be settled in a closed hearing in which the defendant and the prosecution shall have an opportunity to have their say. Following the closed hearing, the court shall allow the submission of evidence about the alleged character and personal history of the injured party only if it is convinced of the relevance of such evidence and that its exclusion could prejudice the defendant by affecting his/her acquittal if the management of the evidence is prohibited. In such cases, the chairperson of the court hearing shall set the limits for the management of this evidence and the questions addressed.

Article 112. Statements and Examination of a Civil Party and a Civilly Liable Party

(1) The statements and examination of a civil party and a civilly liable party shall comply with the provisions related to the interrogation of the accused duly applied. A civil party and a civilly liable party shall provide explanations on the civil action filed.

(2) A civil party may be examined as a witness regarding the circumstances important for the settlement of the criminal case and the provisions for examining a witness shall be duly applied.

Article 113. Confrontation

(1) Should there be discrepancies between the statements of persons examined in the same case, these persons shall be confronted, including the person whose statements disfavor the suspect/accused, if necessary, to uncover the truth and to eliminate the discrepancies.

(2) The confrontation shall be conducted by the criminal investigative body ex officio or at the request of the participants in the proceeding.

(3) The persons confronted shall be examined in line with the provisions for examining witnesses or interrogating the accused duly applied depending on the procedural status of the persons confronted.

(4) The persons confronted shall be examined about their relationship and the acts and circumstances in which their previous statements are in conflict. Following their testimony, the persons confronted may ask each other questions and answer the questions of the person conducting the procedural action.

(5) The statements of the persons confronted shall be recorded in the transcript prepared in line with arts. 260 and 261.

(6) No juvenile shall be forced to participate in a confrontation with a person accused of a crime against his/her physical and/or moral integrity.
[Art.113 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]
[Art.113 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 114. Verification of Statements at the Crime Scene

(1) In order to verify or clarify the statements of a witness, injured party, suspect/accused about the events of a crime that occurred in a specific place, the representative of the criminal investigative body shall have the right to attend the crime scene together with the person examined and, as the case may be, with the defense counsel, interpreter, specialist, legal representative and shall propose that the person examined describe the circumstances and objects of previous or current statements.

(2) The person examined shall show the way to the crime scene, describe the circumstances and objects in previous statements and answer the questions of the representative of the criminal investigative body.

(3) If in the course of verifying the statements at the crime scene, objects and documents are found that may be used as evidence in the criminal case, such objects and documents shall be collected and noted in the transcript of the procedural action.

(4) The verification of statements at the crime scene shall be allowed provided it does not injure the dignity and honor of the persons participating in this procedural action and does not endanger their health.

(5) The verification of statements at the crime scene shall be recorded in the transcript in line with the provisions in arts. 260 and 261 where, in addition, the statements made by the person at the crime scene shall be registered. Technical means may be used and sketches may be drawn during the verification of statements at the crime scene. This fact shall be recorded in the transcript. All audio and video tapes, films, sketches, documents and objects collected at the scene of the crime shall be attached to the transcript.

Article 115. Using Audio and Video Recording Equipment for Examining Persons

(1) To examine the suspect/accused/defendant, the injured party, the witnesses, the criminal investigative body or the court, at their request or ex officio, may use audio or video recording equipment. The person to be examined shall be informed about the use of audio or video recording equipment prior to the examination.

(2) The audio or video record shall contain data on the person examined and on the person conducting the examination. All data and the entire course of the examination must be recorded in the transcript of the examination in line with the requirements in arts. 260 and 261. Audio or video recording of a part of the examination and specifically repeating statements already made for audio or video recording shall not be allowed.

(3) Upon completion of the examination, the audio or video recordings shall be played in their entirety to the person examined. Additions to the audio or video records of statements made by the person examined shall be also recorded on an audio or video tape. The audio or video recording shall end with the person examined confirming the correctness of the statements he/she made.

(4) The statements obtained during the examination using audio or video recording equipment shall be registered in the transcript of the examination.

(5) Should the audio or video recording of a statement be played during any other criminal investigative action, the criminal investigative body shall note it in the respective transcript.

Section 2
Presenting for Identification

Article 116. Presenting a Person for Identification

(1) Should it be necessary to present a person for identification by a witness, injured party, suspect/accused, the criminal investigative body shall interview them about the circumstances in which they saw the person and the distinctive signs and features by which they can identify the person. A transcript shall be prepared thereof.

(2) Should the person invited to be identified be a witness or an injured party, he/she shall be warned about the liability provided in art. 313 of the Criminal Code for refusing to make statements, and in art. 312 of the Criminal Code for false statements, and about the right not to testify against himself/herself or against his/her close relatives.

(3) The person to be identified shall be introduced to the person making the identification outside the visibility of the person to be identified along with at least four procedural assistants of the same sex and similar appearance. Photographs shall be taken upon presentation for identification. The pictures of the person presented for identification and of the procedural assistants shall be mandatorily attached to the transcript.

(4) Prior to presentation, the representative of the criminal investigative body shall invite the person to be identified to choose a place among the procedural assistants and the invitation shall be noted in the transcript.

(5) An identification shall not take place and one that took place shall not be considered justified if the person making the identification referred to questionable peculiarities to identify the person presented. The repeated identification of a person by the same person and by the same peculiarities shall not be allowed.

(6) Should the presentation of a person for identification be impossible, the person shall be identified by his/her picture shown with the pictures of at least four other persons of similar appearance. All the pictures shall be attached to the case file.

(7) Transcript of the presentation for identification of a person shall be prepared in line with the provisions in arts. 260 and 261 except in cases when the person identified has not read the transcript and has not signed it.

Article 117. Presentation of Objects for Identification

(1) Persons invited to identify an object shall be preliminarily interviewed on the circumstances in which they saw the object to be presented and on the distinctive signs and features by which they can identify the object. A transcript shall be prepared thereof.

(2) Should a person invited to identify an object be a witness or an injured party, he/she shall be warned about the liability provided in art. 313 of the Criminal Code for refusing to make

statements and in art. 312 of the Criminal Code for false statements and about the right not to testify against himself/herself or against his/her close relatives.

(3) The object to be identified shall be presented together with at least two other similar objects. The person identifying the object shall explain which signs or features he/she used to identify it.

(4) When presenting for identification a body or parts thereof, antique objects or other objects for which it is impossible to select or present similar objects, the unique object shall be presented for identification.

(5) Should the body of a person known to a person invited to identify it be presented for identification, the cosmetic preparation of the deceased shall be allowed. When presenting a unique object for identification, cleaning it of dirt, rust and other coverings shall be allowed provided that the cleaning will not destroy it as a source of evidence.

(6) The transcript of the presentation of an object for identification shall be prepared in line with the provisions of arts. 260 and 261.

Section 3
On-Site Investigations, Corporal Examinations, Exhumation of a Corpse, Reconstruction of an Event and Experiments

Article 118. On-Site Investigations

(1) In order to discover the indications of a crime, material sources of evidence to establish the circumstances of a crime or other circumstances important for the case, the criminal investigative body shall investigate the site, premises, objects, documents, animals, human or animal remains.

(2) An on-site investigation of a domicile without the permission of the person who is granted the rights set forth in art. 12 shall be conducted based on a reasoned order of the criminal investigative body and the authorization of the investigative judge.

(3) The criminal investigative body shall examine visible objects and, if necessary, shall allow access to such objects to the extent that human rights are not violated. In certain cases, the person conducting the criminal investigation shall, if necessary, take various measurements, photographs or films; shall draw pictures or sketches or shall prepare moulds or impressions of shoes independently or assisted by a specialist in the respective area. Law enforcement agents may restrict access to the scene of the investigation.

(4) The objects discovered during an on-site investigation shall be examined there and the results of the examination shall be recorded in the transcript of the respective action. Should the examination of objects and documents require more time, and for other reasons, the person conducting the criminal investigation shall examine them at the venue of the criminal investigative body. In such a case, the objects and documents shall be packed and sealed and the package shall be signed and a note of the action shall be made in the transcript.

Article 119. Corporal Examination

(1) A criminal investigative body shall have the right to make a corporal examination of a suspect/ accused/defendant, a witness or an injured party with their consent or based on a reasoned order of the criminal investigative body and the authorization of the investigative judge in order to discover on their bodies any evidence of the crime or any distinctive marks provided that medical and forensic expertise is not necessary.

(2) In the case of a flagrant crime, a corporal examination shall be conducted without the authorization of the investigative judge. However, the investigative judge shall, within 24 hours, be notified of the action performed and shall receive the respective materials of the case so that the legality of this action is verified.

(3) If necessary, a corporal examination shall be conducted with the participation of a doctor.

(4) The person conducting the criminal investigation shall not attend the corporal examination of a person of the opposite sex if he/she is to be undressed. In this case, the corporal examination shall be performed by a doctor.

(5) Any actions humiliating the dignity or endangering the health of the person examined shall be prohibited during a corporal examination.

Article 120. Examination of a Corpse

The criminal investigative body with the participation of a forensic doctor or in his/her absence with participation of any other doctor shall perform an external examination of a corpse at the place it was found. If necessary, other specialists shall be involved in the examination of a corpse. Following the examination, the corpse shall be taken to a medical and forensic institution where measures shall be undertaken to prevent the loss, deterioration or decomposition of the corpse or of parts thereof.

Article 121. Exhumation of a Corpse

(1) A corpse may be exhumed based on a reasoned order of the criminal investigative body and the authorization of the investigative judge by which the relatives shall be notified.

(2) A corpse shall be exhumed in the presence of a prosecutor and a specialist in forensic medicine, and the local health and epidemiological service shall be notified in advance.

(3) Following exhumation, the corpse may be taken to the respective medical institution for examination.

Article 122. Reconstruction of an Event

(1) The criminal investigative body shall ex officio or at the request of the participants in the proceeding, and the court at the request of the parties considering it necessary to verify and clarify certain data, may reconstruct, in whole or in part, the event at the crime scene involving the alleged perpetrator by reproducing the actions, situation or other circumstances in which the act was committed. If necessary, measurements, films and photographs may be taken, drawings and plans may be made.

(2) Any actions humiliating the honor and dignity or endangering the health of the persons participating in the reconstruction of events or the persons around them shall be prohibited.

Article 123. Experiments in Criminal Investigative Procedures

(1) In order to verify and clarify data important for the criminal case that may be reproduced in experiments or other investigative activities, the criminal investigative body shall have the right to perform an experiment as part of a criminal investigation procedure.

(2) If necessary, the criminal investigative body shall have the right to involve in the experiment the suspect/accused, witnesses with their consent and a specialist or other persons, and may use various technical means to carry it out.

(3) The experiment shall be allowed provided that it does not endanger the lives or health of the participants therein, that it does not injure their honor and dignity and that it does not cause material damage to the participants.

Article 124. Transcript of On-Site Investigations, Corporal Examinations, Exhumation of a Corpse, Reconstruction of an Event and Experiments

Transcript of on-site investigations, corporal examinations, examinations of a corpse, the exhumation of a corpse, the reconstruction of an event and experiments shall be prepared in line with the provisions in arts. 260 and 261. The transcript shall describe in detail all the circumstances, the sequence and the results of the respective procedural actions and the peculiarities of the technical means used. Sketches, plans and materials describing the use of any technical means shall be attached to the transcript.

Section 4
Search for and Seizure of Objects and Documents

Article 125. Reasons for a Search

(1) The criminal investigative body shall have the right to conduct a search if the evidence obtained or the operative investigative materials substantiate a reasonable assumption that the tools designed to be used or used as the means for committing a crime, objects and valuables obtained as a result of a crime are at a specific premises or in any other place or with a specific person. A search may also be conducted for objects or documents that could be important for the criminal case and that cannot be obtained by other evidentiary methods.

(2) A search may be also performed in order to find wanted persons or human or animal remains.

(3) A search shall be based on a reasoned order of the criminal investigative body and the authorization of the investigative judge.

(4) In the case of a flagrant crime, a search may be based on a reasoned order without the authorization of the investigative judge; however, not later than 24 hours after the time the search is completed, the investigative judge should receive the materials obtained as a result

of the search and transcript indicating the reasons for the search. The investigative judge shall then verify the legality of this procedural action.

(5) Should it be found that the search was legal, the investigative judge shall confirm its result in a reasoned ruling. Otherwise, the investigative judge shall declare the search illegal in a reasoned ruling.
[Art.125 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 126. Grounds for Seizing Objects or Documents

(1) The criminal investigative body shall have the right to seize any objects or documents important for the criminal case if the evidence obtained or the operative investigative materials refer precisely to the place and the person holding them.

(2) The seizure of documents containing information that is a state, trade, banking secret and the seizure of information on telephone conversations shall be allowed only upon the authorization of the investigative judge.

(3) The seizure of objects or documents in other circumstances shall be based on a reasoned ruling by the criminal investigative body.

Article 127. Persons Attending the Search for or Seizure of Objects and Documents

(1) If necessary, an interpreter or a specialist may participate in the search for or seizure of objects and documents.

(2) The presence of the person subject to a search or seizure or of his/her adult family members or of persons representing the interests of the person shall be secured during the search for or seizure of objects and documents. Should their presence be impossible, a representative of the executive authority of the local public administration shall be invited.

(3) Seizing objects and documents or searching the premises of institutions, enterprises, organizations military units shall be performed in the presence of the respective representatives thereof.

(4) Persons subject to a search for or the seizure of objects and documents and specialists, interpreters, representatives and defense counsels shall have the right to attend all the actions of the criminal investigative body and to make objections and statements to be recorded in the transcript thereof.

Article 128. Procedure for Searching for or Seizing Objects and Documents

(1) The seizure of objects or documents or searching for them during nighttime shall be prohibited, except in the case of flagrant crimes.

(2) The person conducting the criminal investigation shall have the right to enter a domicile or other premises based on an order on search or seizure of objects and documents based on the authorization of the investigative judge.

(3) Prior to a search for or seizure of objects and documents, the representative of the criminal investigative body shall hand over, against signature, to the person subject to a search or seizure a copy of the respective order.

(4) After locating objects and documents and upon presenting the order, the representative of the criminal investigative body shall request the submission of the objects or documents to be seized. If refused, he/she shall proceed to seize them by force. Should the objects or documents to be seized not be found at the place specified in the order, the person conducting the criminal investigation shall have the right to search for them elsewhere. The results of the search shall be submitted for verification to the investigative judge within 24 hours, in line with the provisions hereunder.

(5) By performing a search and upon presenting the order, the representative of the criminal investigative body shall request the submission of the objects and documents specified in the order. Financial institutions may not invoke banking secrets as a reason to refuse to submit the documents requested. Should the objects and documents be submitted voluntarily, the person conducting the criminal investigation shall be limited to their seizure and shall not undertake any other investigative measures.

(6) All the objects and documents seized shall be shown to all the persons attending the search or seizure. The objects and documents found during the search or seizure and prohibited from circulation shall be seized regardless of whether they are or are not related to the criminal case.

(7) By performing a search for or seizure of objects and documents, the person conducting the criminal investigation shall have the right to unlock locked premises and storehouses if the owner refuses to open them voluntarily while avoiding any unjustified damage of the goods.

(8) Technical means may be used during a search and a note to this effect shall be made in the transcript.

(9) The criminal investigative body shall undertake measures to exclude disclosure of any circumstances related to the intimate life of a person learned during a search or seizure.

(10) The person conducting the criminal investigation shall have the right to prohibit any persons present on the premises or at the search site and any persons who entered the premises or who came to that place from leaving or talking to each other or to other persons until the search is completed. If necessary, the premises or the search site may be placed under guard.
[Art.128 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 129. Procedure for Searches or Seizures on the Premises of Diplomatic Missions

(1) A search or seizure on the premises of diplomatic missions including the premises where the diplomatic mission members and their families live may be performed only at the request or consent of the foreign state as expressed by the chief of the diplomatic mission. Consent for a search or seizure shall be requested by the Ministry of External Affairs and European Integration of the Republic of Moldova.

(2) When performing a search or seizure on the premises specified in para. (1), the presence of a prosecutor and of a representative of the Ministry of Foreign Affairs and European Integration of the Republic of Moldova shall be mandatory.

(3) A search for or seizure of objects and documents on the premises of diplomatic missions shall be performed in line with the provisions of this Code.
[Art.129 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 130. Corporal Search and Seizure

(1) Should there be grounds to perform a search or seizure on the premises, the representative of the criminal investigative body may take any objects and documents important for the case found in the clothes, goods or on the body of the person subject to this criminal investigative action.

(2) A corporal search without an order and the authorization of the investigative judge may be allowed:

1) when capturing a suspect/accused/defendant;
2) when arresting a suspect/accused/defendant;
3) if there are sufficient grounds to assume that the person present on the premises subject to search or seizure may conceal in his/her clothes documents or other objects of evidentiary significance for the criminal case.

(3) A corporal search for or seizure of objects shall be performed by the representative of the criminal investigative body with the participation, as the case may be, of a specialist of the same sex as the person to be searched.

Article 131. Transcript of a Search or Seizure

(1) The representative of the criminal investigative body performing a search for or seizure of objects and documents shall prepare the transcript in line with the provisions in arts. 260 and 261. If in addition to the transcript a special list of seized objects and documents is prepared, such a list shall be attached to the transcript. The transcript of the search or seizure shall include a note that the persons present were explained their rights and obligations provided in this Code and any statements made by these persons.

(2) It shall be noted whether the objects and documents to be seized were submitted voluntarily or seized by force in addition to the place and the circumstances in which they were found. All the objects or documents seized shall be listed in the transcript or in an attached list specifying their exact number, size, quantity, characteristic elements and, to the extent possible, their value.

(3) If actions violating public order were undertaken during the search or seizure by the person subject to search or seizure or by other persons or if attempts were made to destroy or conceal the objects or documents searched for, the representative of the criminal investigative body shall record these actions in the transcript specifying, at the same time, any measures he/she undertook.

(4) The transcript of a search or seizure shall be brought to the notice of the persons participating in these procedural actions and attending such actions. This fact shall be confirmed by the signature of each of them on the transcript.

(5) The objects and documents seized shall be, to the extent possible, packed and sealed at the site of a search or seizure which shall be noted in the transcript. Any sealed packages shall be signed by the person who conducted the search or seizure.

Article 132. Mandatory Submission of Copies of the Transcript of a Search or Seizure

(1) A copy of the transcript of a search or seizure shall be handed over, against signature, to the persons subjected to these procedural actions or to an adult member of their family or in the absence thereof to a representative of the executive authority of the local public administration who shall be advised of the right and the manner of appeal against these procedural actions.

(2) Should a search or seizure be performed on the premises of an enterprise, institution, organization or a military unit, a copy of the transcript shall be handed over to their representatives.

Section 5
Sequestration of Correspondence and Wiretapping

Article 133. Sequestration of Correspondence

(1) Should there be reasonable grounds to assume that correspondence received or sent by the suspect/accused may contain information of evidentiary significance for a criminal case on one or several serious, especially serious or exceptionally serious crimes and if the evidence cannot be obtained through other evidentiary methods, the criminal investigative body shall have the right to sequester the correspondence of the aforementioned person.

(2) The correspondence that may be sequestered includes letters of any kind, telegrams, radiograms, light parcels, packages, mail containers, mail transfers, faxes and email messages.

(3) The prosecutor managing or conducting the criminal investigation shall issue an order sequestering the correspondence that will be submitted to the investigative judge or, as the case may be, to the court for authorization. The order shall, in particular, cover the reasons for sequestering the correspondence, the name of the post office vested with the obligation to retain the correspondence, the last and first name of the person or persons whose correspondence is to be retained, the exact address of these persons, the kind of correspondence to be sequestered and the duration of the sequestration. The term of sequestration shall be extended in line with this article.

(4) The order sequestering correspondence with the respective authorization shall be transmitted to the chief of the respective post office for whom the enforcement of this order is mandatory.

(5) The chief of the post office shall immediately inform the body that issued the order about the retention of the correspondence specified therein.

(6) The sequestration of correspondence shall be cancelled by the criminal investigative body that issued the respective order, by a higher-level prosecutor or by the investigative judge upon the expiry of the term set for sequestration; however, in any case, the cancellation shall not be later than the date the criminal investigation is completed.
[Art.133 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.133 completed by Law No. 277-XVI dated 04.11.05, in force as of 02.12.05]

Article 134. Examination and Seizure of Sequestered Correspondence

(1) A representative of the criminal investigative body shall hand over to the chief of the post office, against signature, the order on examining and seizing the correspondence and shall open and examine the correspondence.

(2) Whenever documents and objects of evidentiary significance to the criminal case are found, the criminal investigative body shall seize them and make copies. Should no documents and objects be found, the representative of the criminal investigative body shall order the handing over of the correspondence examined to the addressee.

(3) Transcript of all examinations and seizures of sequestered correspondence shall be prepared in line with the provisions in arts. 260 and 261. In particular, the transcript shall refer to the person whose correspondence was sequestered and to the place and time of examination and seizure of the sequestered correspondence, to any order to hand it over to the addressee, to the kind of correspondence, to the correspondence that was copied, to the technical means used and to what was found. All the participants and persons present at this procedural action shall be warned about their obligation to guard the confidentiality of the correspondence, not to disclose criminal investigative information and about their criminal liability set forth in arts. 178 and 315 of the Criminal Code. Notes to that effect shall be included in the transcript.

Article 135. Wiretapping

(1) Wiretapping (tapping telephone, radio or other conversations using technical means) shall be performed by a criminal investigative body upon the authorization of the investigative judge, based on a reasoned order of the prosecutor in cases related to serious, especially serious and exceptionally serious crimes provided that the evidence obtained or operative investigative materials substantiate a reasonable suspicion about the commission of such crimes.

(2) In urgent cases if the delay in getting the authorization mentioned in para. (1) would cause serious prejudice to the management of the evidence, the prosecutor may reasonably order wiretapping notifying the investigative judge immediately or not later than within 24 hours and the judge shall not later than within 24 hours either confirm the order of the prosecutor and authorize, if necessary, further wiretapping or reject it ordering the immediate termination of the wiretapping and the destruction of any records obtained thereby.

(3) Wiretapping shall be allowed hereunder in cases of threats of violence, extortion or other crimes committed against an injured party, a witness or the members of their families at their request based on a reasoned order of the prosecutor and with judicial control in line with the procedure described in para. (2).

(4) Wiretapping as part of a criminal investigation shall be authorized for not more than 30 days. The duration of wiretapping may be extended under the same conditions for justified

reasons, but any extension may not exceed 30 days. The total duration of wiretapping may not exceed 6 months. In any case, wiretapping may not last longer than the criminal investigation.

(5) Wiretapping shall be cancelled prior to the expiry of the term it was authorized for once the reasons justifying it are no longer valid.

(6) During a criminal investigation, the investigative judge upon the completion of authorized wiretapping shall seek the opinion of the prosecutor managing or conducting the criminal investigation and within a reasonable timeframe, though not later than the date of the completion of the criminal investigation, shall notify in writing the persons whose conversations were tapped and recorded.
[Art.135 amended by Law No. 264-XVI din 28.07.2006, in force as of 03.11.2006]
[Art.135 completed by Law No. 277-XVI dated 04.11.05, in force as of 02.12.05]

Article 136. Procedure for Wiretapping, Recording and Certification

(1) Wiretapping and recording shall be performed by a criminal investigative body. Technical support for wiretapping shall be provided by the Information and Security Service of the Republic of Moldova in line with the Law on Operative Investigative Activities. The persons invited to provide technical support for wiretapping and recording shall keep this procedural action secret, shall guard the confidentiality of the correspondence and shall be liable for violating this obligation in line with the provisions in arts. 178 and 315 of the Criminal Code. The explanation of these obligations shall be recorded in the transcript of wiretapping.

(2) The criminal investigative body shall prepare the transcript of wiretapping and recording in line with the provisions in arts. 260 and 261. Additionally, the transcript shall refer to the authorization of the investigative judge; the telephone number or numbers tapped; the address of the telephone station, radio station or other technical means via which the conversations were conducted; the names of the persons conducting the conversations, if known; the date and hour of every conversation and the sequential numbers of the tapes recorded.

(3) Recorded communications shall be integrally reproduced in writing, certified by the criminal investigation body, verified and countersigned by the prosecutor who conducts or manages the criminal investigation and shall be attached to the transcript. Communications in a language other than the one of the criminal investigation shall be translated by a translator. The transcript shall be also attached the tape with the original recorded communication sealed by the seal of the criminal investigative body.

(4) Tapes with the recorded conversations, their written reproduction and the transcript of wiretapping and recording shall be transmitted within 24 hours to the prosecutor who shall assess whether the information collected is important for the case and shall prepare the transcript thereof.

(5) Tapes with the original records of the conversations, the integral reproduction in writing of those records and the copies of the transcript shall be transmitted to the investigative judge who authorized the wiretapping to be stored in specially designed places in a sealed envelope.

(6) The court shall order, by a sentence, the destruction of any records unimportant for the case. The other records shall be kept until the case is archived.
[Art.136 completed by Law No. 285-XVI dated 20.12.2007, in force as of 11.07.2008]
[Art.136 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 137. Video Recording and Photography

Video recording and photography shall be used in line with and in the manner provided for wiretapping in arts. 135 and 136 duly applied.

Article 138. Verification of Wiretapping

The sources of evidence obtained in line with arts. 135 and 137 may be verified by a technical expert appointed by the court upon the request of the parties or ex officio.

Section 6
Technical and Scientific and Medical and Forensic Investigations

Article 139. Conditions for Technical and Scientific and Medical and Forensic Investigations

(1) If there is a risk of the disappearance of some sources of evidence or a change in certain circumstances and it is necessary to urgently clarify certain facts or circumstances of the case, the criminal investigative body or the court may use the knowledge of a specialist by ordering, at the request of the parties or of the criminal investigative body ex officio, technical and scientific or medical and forensic investigations.

(2) Technical and scientific investigations shall be performed, as a rule, by specialists employed by the criminal investigative body. They may also be performed by specialists working in other agencies or by other specialists.

Article 140. The Manner of Performance of Technical and Scientific or Medical and Forensic Investigations

(1) The criminal investigative body or the court ordering a technical and scientific investigation shall determine the object thereof, shall formulate the questions to be answered and shall set the term for the work.

(2) A technical and scientific investigation shall focus on the materials and information provided or indicated by the criminal investigative body or by the court. The person performing the investigation may not be delegated and may not take over the duties of the criminal investigative body or control agency.

(3) Should the specialist performing the investigation consider that the materials provided or the information indicated are insufficient, he/she shall notify the criminal investigative body or the court and request their completion.

(4) Should a corporal examination of the accused or the injured party be required in order to identify on their bodies evidence of the crime, the criminal investigative body shall order a medical and forensic investigation and shall request a medical and forensic agency competent under the law to perform such an investigation.

Article 141. Technical and Scientific or Medical and Forensic Report

(1) The results of a technical and scientific or medical and forensic investigation shall be compiled in a report.

(2) The criminal investigative body ex officio or at the request of the parties or the court at the request of any of the parties shall order an expert report if it is found that the technical and scientific or medical and forensic report is incomplete or that the conclusions therein are imprecise.

(3) Should a specialist participate in the evidentiary procedures of the criminal investigative body, the results of the technical and scientific and medical and forensic investigations shall be included in the transcript of the respective action.

Section 7
Expertise

Article 142. Grounds for Requesting and Providing an Expert Opinion

(1) An expert opinion shall be requested when, in order to establish circumstances that may have an evidentiary significance for the criminal case, special knowledge in science, technology, art or handicrafts is required. Any special knowledge of the person conducting the criminal investigation or of the judge shall not exclude the need for such expertise. An expert opinion shall be ordered at the request of the parties by the criminal investigative body, by the court or ex officio by the criminal investigative body.

(2) The parties on their own initiative and at their own expense shall have the right to make a motion for an expert opinion in order to identify circumstances that, to their minds, could be used to protect their interests. The report of the expert made at the request of the parties shall be submitted to the criminal investigative body, attached to the criminal case file and assessed with the other evidence.

(3) Any person having the knowledge necessary to provide conclusions related to the circumstances occurring in a criminal case that may have evidentiary significance for the criminal case may be appointed as an expert. Every party shall have the right to recommend an expert to participate in the expertise.

Article 143. Cases Requiring Expertise

Expertise shall be sought and required in order to ascertain:

1) the cause of death;

2) the degree of seriousness and the nature of bodily injuries;

3) the mental or physical condition of a suspect/accused/defendant if there are doubts regarding their mental capacity or their capacity to defend their own legal rights and interests in a criminal proceeding;

4) the age of the suspect/accused/defendant or injured party if this circumstance is important for the criminal case and if documents confirming the age are missing or suspicious;

5) the mental or physical condition of an injured party or of a witness if doubts exist regarding their capacity to justly perceive the circumstances important for the criminal case or to testify, provided that such testimony shall subsequently substantiate, exclusively or principally, the judgment on this case;

6) in other cases if the truth cannot be found via other evidence.

Article 144. Procedure for Seeking Expertise

(1) The criminal investigative body considering that expertise is necessary shall request it with an order and the court shall request it in a ruling. The order or ruling shall cover the name of the person who initiated the request for expertise; the grounds for requiring expertise; the objects, documents and other materials submitted to the expert with a notation on when and in what circumstances they were found and seized; the questions addressed to the expert; the name of the expert's agency, the last and first name of the person tasked with giving the expert report.

(2) The order or the ruling requesting expertise shall be mandatory for the agency or person authorized to offer it.

(3) If expertise is performed on the initiative and at the expense of the parties, the expert shall be provided with a list of questions, objects and materials the parties have or will submit, at their request, to the criminal investigative body. A transcript shall be prepared in this regard.

Article 145. Actions Preliminary to the Expertise

(1) The criminal investigative body or the court requesting expertise shall set a term for summoning the parties and the expert if he/she was appointed by the criminal investigative body or the court.

(2) Within the term set, the parties and the expert shall be notified about the reason for seeking expertise and the questions to be answered by the expert and about their right to make remarks on these questions and to request changes or completions. At the same time, the parties shall be advised of their right to request the appointment of an expert recommended by each of them to participate in the expertise.

(3) Following an examination of any objections and requests made by the parties and the expert, the criminal investigative body or the court shall set the term for the expertise by notifying the expert whether the parties will or will not participate therein.

Article 146. Commissions of Experts

(1) Complicated expert reports and counter opinions shall be made by a commission consisting of several experts of the same type. At the request of the parties, members of the expert commission may be the experts invited by them. The experts shall consult with each other and reach a common opinion and prepare a single report to be signed by all of the members. If a disagreement exists among them, each of them shall present a separate report either on all the issues or on only those issues on which they disagree.

(2) The requirement of the criminal investigative body or the court that expertise be offered by a commission of experts shall be mandatory for the chief of an expert agency. Should offering expertise be the task of an expert agency, its chief shall have the right to organize a collegial expertise.

Article 147. Complex Expert Reports

(1) Should it be possible to establish a circumstance that may have evidentiary significance for the criminal case only by investigations in various areas, a complex expert report shall be ordered.

(2) Given the totality of data examined during a complex expert report and within the limits of their competence, the experts shall formulate conclusions on the circumstances their expertise was required for.

(3) An expert shall not have the right to sign any part of a complex expert report not related to his/her competence.

Article 148. Additional Expert Reports and Counter Opinions

(1) Should the criminal investigative body that ordered an expert report or the court consider that the report is insufficiently clear or complete, additional expertise may be requested from the same or a different expert.

(2) If the conclusions of the expert are not justified, if there are doubts about the conclusions or if any procedures were violated, a counter opinion may be ordered from a different expert or experts. The authenticity of previously applied methods may be analyzed during this investigation. The reasons for seeking expertise shall be specified in the order or ruling ordering the counter opinion. The first expert may also participate in offering a counter opinion in order to provide explanations; however, he/she shall not participate in the investigations and the final conclusions.

Article 149. Expertise from an Expert Agency

(1) The criminal investigative body or the court shall send the chief of an expert agency a decision on seeking expertise, the respective objects and materials to be examined and, when necessary, the materials in the criminal case file. Expertise shall then be offered by an expert of the agency specified in the order or ruling. Should a specific expert be not indicated, the chief of the expert agency shall appoint an expert and notify the body that ordered the opinion.

(2) Should the expertise be sought on the initiative and at the expense of the parties, the parties shall submit to the chief of the expert agency a list of questions, objects and materials to be investigated.

(3) The chief of the expert agency shall explain to the expert his/her rights and obligations set forth in art. 88 hereunder and shall warn him/her of the liability provided in art. 312 of the Criminal Code for making deliberately false conclusions, shall organize the expertise, shall ensure the storage of objects submitted for the investigation and shall set the term for it. The chief of the expert agency shall not have the right to give orders that could predetermine the course and the contents of the investigation.

Article 150. Expertise Outside an Expert Agency

(1) Should expertise not be offered by an expert agency, the criminal investigative body or the court upon issuing the order or ruling requesting it shall invite the expert to explain his/her competence and his/her relationship with the suspect/accused/defendant, injured party, and other parties to make sure there are no reasons for the expert’s recusal.

(2) The body that requested the expertise shall hand over the order or ruling to the expert, explain the rights and obligations provided in art. 88 hereunder and shall warn him/her of the liability set forth in art. 312 of the Criminal Code for making deliberately false conclusions. This fact shall be mentioned in the order or the ruling and shall be confirmed by the signature of the expert. The statements and requests of the expert shall be reported in the same manner. The body that ordered the expertise shall issue a reasoned order or ruling for rejecting the expert's request.

(3) The criminal investigative body shall ensure the presence of the suspect/accused/defendant, the injured party, the witness should it become necessary to perform a corporal examination or to examine their mental health or should their presence be necessary for making an expert report.

(4) A contract between the respective party and the expert shall be signed in order to offer an expert report on the initiative and at the expense of one of the parties. The party shall provide the expert with a list of questions and objects to be investigated.

Article 151. Preparing and Submitting an Expert Report

(1) Following the necessary investigations, the expert shall prepare a written report confirmed by his/her signature and shall apply the seal of the respective agency.

(2) The report of the expert shall refer to the date, place and to the person (last name, first name, education, specialty, length of professional experience) making the report, to the fact that the expert was informed about his/her criminal liability for presenting deliberately false conclusions, to his/her scientific title and degree, to the position of the person offering expertise and the grounds for requesting expertise, to the persons attending the investigation, to the materials used by the expert, to the type of investigation, to the questions addressed to the expert. Should the expert establish circumstances of an interest for the criminal case, not covered by the questions, he/she shall have the right to mention them in his/her report.

(3) Material evidence, graphical evidence, other materials remaining after the investigation and pictures, sketches and graphs confirming the expert's conclusions shall be attached to the report of the expert.

(4) In his/her report, the expert shall justify not answering all or certain questions addressed, shall state if the materials provided were insufficient or if the questions formulated were not within the competence of the expert or if the level of science and practice of the expert did not permit answering the questions asked.

(5) The report of the expert or his/her statement on the impossibility of providing conclusions and the transcript of the examination of the expert shall be conveyed immediately or not later than within three days of their receipt by the criminal investigative body to the parties in the proceeding entitled to receive explanations, make objections, and require that additional questions be addressed to the expert or that additional expertise or a counter opinion be sought. These actions shall be recorded in the transcript.

Article 152. Placing a Person in a Medical Institution for an Expert Opinion

(1) The suspect/accused/defendant may be placed in a medical institution if medical and forensic or psychiatric expertise requires long-term supervision. This fact shall be indicated in the order or ruling on seeking expertise.

(2) The placement of a suspect/accused in a medical institution for the purpose of getting an expert opinion mentioned in para. (1) shall be allowed upon the authorization of the investigative judge based on a motion by the prosecutor in line with art. 305. The ruling of the investigative judge on the authorization for placement in a medical institution may be subject to cassation in line with art. 311.

(3) Should the need for placement in a medical institution arise during the hearing of the case, the court shall issue a ruling in line with the motions of the parties, expert or ex officio.

(4) A suspect shall be placed in a medical institution for an in-patient evaluation for up to 10 days. This term may be extended, if necessary, upon a motion by the prosecutor, by the investigative judge after charges have been brought.

(5) An accused shall be placed in a medical institution for an in-patient evaluation for up to 30 days.

(6) An extension of the term for placing an accused in a medical institution for an in-patient evaluation may be ordered by the investigative judge upon a motion by the prosecutor for up to 6 months. Each extension shall not exceed 30 days.

(7) A suspect/accused placed in a medical institution for an in-patient evaluation, the defense counsel or the representative of the suspect/accused may appeal against the ruling of the investigative judge on an application for or extension of the placement or may require an out-patient evaluation within three days of the date issued. The provisions in arts. 311 and 312 shall duly apply.

(8) Should the suspect/accused be preventively arrested, his/her transfer for an in-patient medical evaluation shall be ordered by the prosecutor.
[Art.152 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 153. Examination of the Expert

(1) If the report of the expert is unclear or deficient and there is no need for additional investigation or when there is a need to clarify the methods or concepts used by the expert, the criminal investigative body shall have the right to examine the expert in line with the provisions in arts. 105-109.

(2) Prior to the report's presentation and review, an examination of the expert shall not be allowed.

Section 8
Sampling for Comparative Investigations

Article 154. Grounds for Sampling

(1) A criminal investigative body shall have the right to take samples reflecting the specific attributes of a living human, of a corpse, of an animal or of a substance or object provided that their investigation is important for the criminal case.

(2) The criminal investigative body shall have the right to take samples from a suspect and an accused.

(3) The criminal investigative body may also order samples from witnesses or from the injured party but only when there is a need to verify if these persons left any traces of themselves at the crime scene or on the material evidence.

(4) If necessary, sampling for a comparative investigation may involve a specialist.

(5) The criminal investigative body shall issue a reasoned order for sampling necessary for a comparative investigation that in particular shall refer to the person who will take the samples, to the person the samples will be taken from; to the types of samples and their amount (quantity); to the date, place and the person to whom the person subject to sampling shall report and when and to whom the samples shall be submitted.

(6) The transcript of the sampling necessary for a comparative investigation shall be prepared in line with the provisions in arts. 260 and 261.

(7) Sampling in line with these articles may also be ordered by the court upon the request of the parties.

Article 155. Types of Samples

(1) Samples may be:

1) of blood, sperm, hair, nail clippings or micro-particles of skin;
2) of saliva, sweat or other bodily fluids;
3) fingerprints, dental moulds and moulds of extremities;
4) records, objects, garments and parts thereof, other materials reflecting the respective person's habits;
5) voice audio records, pictures or video records;
6) solid materials, substances, raw materials, products;
7) weapons of different types, cartridges, cartridge cases, bullets, components and tools used for the production thereof;
8) neutralized explosive devices, parts thereof, components, mechanisms and tools used for the production thereof;
9) other substances and objects.

(2) Sampling endangering the health and life of a person or injuring his/her honor and dignity shall be prohibited.

Article 156. Manner of Sampling Based on the Order of the Criminal Investigative Body

(1) A representative of the criminal investigative body shall summon the person from whom samples will be taken or shall arrive at the place of his/her location, shall hand over to him/her against signature the order for sampling and shall explain to this person and the specialist their rights and obligations.

(2) The representative of the criminal investigative body and the specialist, if invited, shall conduct the necessary actions to take the respective samples. The samples, except for documents, shall be packed and sealed and the sealed packages shall be signed by the person conducting the respective action. If necessary, sampling shall be performed by means of a search or seizure or concurrently with these and other criminal investigative actions.

(3) The transcript of sampling shall be prepared in line with the provisions in arts. 260 and 261 and shall describe in sequence all the actions undertaken to take the samples, the methods and the technical means used, and the samples themselves. The samples taken shall be attached to the transcript.

Section 9
Material Sources of Evidence

Article 157. Documents

(1) Material sources of evidence are documents in any form (written, audio, video, electronic, etc.) originating from officials or legal entities if they describe or confirm circumstances important for the case.

(2) On the order of a criminal investigative body or a ruling of the court, the documents shall be attached to the case file and stored for the entire duration of the case. If original documents are required for reporting or for other legal purposes, they may be returned to the owners to the extent possible without affecting the proceeding, while copies thereof shall be kept in the case file.

(3) Documents shall be submitted by individuals and legal entities on an ex-officio motion of the criminal investigative body, at the request of the other participants in the proceeding, on a motion by the court made at the request of the parties or on a motion by the parties during the criminal investigation or hearing of the case.

(4) Should the documents cover at least one of the elements specified in art. 158, such shall be acknowledged as material evidence.
[Art.157 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 158. Material Evidence

(1) Material evidence includes objects assumed to be used in the commission of the crime, that bear traces of criminal actions or that were the object of these actions and money and other valuables or objects or documents that may be used as sources to solve a crime, establish its circumstances, identify the guilty persons, reject the accusation or mitigate criminal liability.

(2) An object shall be acknowledged as material evidence by an order of the criminal investigative body or by a ruling of the court and shall be attached to the case file.

(3) An object may be acknowledged as material evidence:

1) if its detailed description, its sealing and other actions undertaken immediately upon its finding exclude the possibility of its substitution or any essential change in its specific features and elements or of traces thereon;

2) if it is obtained by an investigation at the crime scene or in a search and seizure, and submitted by participants in the proceeding who were preliminarily heard.

Article 159. Storage of Material Evidence and Other Objects

(1) Material evidence shall be attached to the case file and stored in the case file or in any other manner provided by law. Material evidence that due to its volume or other reasons cannot be stored in the case file shall be photographed and the pictures shall be attached to the respective transcript. After photographing, large objects may be sealed and transmitted for storage to legal entities or individuals. In this case, a relevant note shall be included in the case file.

(2) Explosive substances and other objects dangerous to human life and health may not be kept as material evidence. This fact shall be confirmed by the conclusions of specialists based on an order of the criminal investigative body authorized by the investigative judge and shall be destroyed by proper methods. In emergencies when there is an obvious risk to human life, explosive substances may be destroyed based on the conclusion of a specialist without the authorization of the investigative judge after which the respective materials shall be submitted within 24 hours to the investigative judge who shall rule on the legality of this procedural action.

(3) Narcotic, psychotropic substances and their precursors may be kept as material evidence in small quantities (samples) sufficient to be used as evidence and for an expert evaluation and should be packed and sealed by an expert. The excess of these substances shall be transmitted to authorized institutions or destroyed based on the order of the criminal investigative body authorized by the investigative judge.

(4) Immediately upon their seizure and examination, precious items, precious stones and products thereof and national or foreign currency, credit cards, check books, securities, bonds acknowledged as material evidence shall be transmitted to the State Depositary of Valuables in line with the set procedure.

(5) Foreign or national currency, national cash seized during a criminal investigation shall be kept in the case file provided they have individual marks resulting from the crime.

(6) Material evidence and other objects seized shall be stored until the criminal investigative body or the court decides on their further use in a final judgment. In cases provided for hereunder, issues on material evidence may be settled prior to the completion of the criminal proceeding.

(7) A conflict regarding the ownership of an object acknowledged as material evidence shall be settled in line with civil procedures. Such an object shall be stored until the judgment issued on the civil case becomes irrevocable.

[Art.159 amended by Law No. 153-XVI dated 05.07.2007, in force as of 27.07.2007]
[Art.159 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.159 completed by Law No. 277-XVI dated 04.11.05, in force as of 02.12.05]

Article 160. Securing the Storage of Material Evidence and Other Objects during a Criminal Proceeding

(1) Measures shall be undertaken to prevent the loss, damage, decomposition, physical contact with or contamination of material evidence or other objects by storing them, transmitting them for an expert evaluation or for technical and scientific or medical and forensic investigation, and by transferring the case to another criminal investigative body or another court.

(2) When transferring a case, all the material evidence and other objects attached to the case file and accompanying it and the place of their storage if they are not attached to the case file shall be indicated in the cover letter, attachments thereto and in the information attached to the indictment.

(3) When transferring a case with material evidence, the body receiving the case shall verify the availability of the objects attached to the case file against the data mentioned in the cover letter for the case. The results of the verification shall be recorded in the cover letter.

Article 161. Judgment on Material Evidence Issued Prior to the Settlement of a Criminal Case

(1) Prior to the settlement of a criminal case, the prosecutor during the criminal investigation or, as the case may be, the court shall order the return to the legal owner or possessor of:

1) perishable products;
2) goods needed for his/her day-to-day life;
3) domestic animals, poultry other animals requiring regular care;
4) a car or any other means of transport provided that it was not sequestered to secure a civil action in a criminal case or to possibly apply the procedure for the special seizure of goods.

(2) Large items of material evidence requiring special storage conditions and having no traces of the crime on them and any other material evidence except for that used for the commission of the crime and bearing traces of the crime shall be transmitted to the respective tax institutions to be used, stored, guarded or sold.

(3) Should the legal owner or possessor of the material evidence mentioned in para. (2) not be known or if its return is impossible due to other reasons, the material evidence shall be transmitted to the respective tax institutions to decide on its use, storage, guarding or sale with the subsequent transfer of any money collected to the deposit account of the respective prosecutor's office or court.

(4) Money marked as evidence of a criminal action shall accrue to the state income and its equivalent shall be refunded to the owner from the state budget. At the request of the victim, the equivalent amount of money acknowledged as material evidence may be refunded based on the judgment of the investigative judge.
[Art.161 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 162. Judgment on Material Evidence Issued on the Settlement of a Criminal Case

(1) Should the prosecutor order the termination of a criminal case or should the case be settled in essence, the issue of material evidence shall be decided. In this case:

1) the tools used for the commission of the crime shall be seized and transmitted to the respective institutions or destroyed;

2) objects prohibited from circulation shall be transmitted to the respective institutions or destroyed;

3) goods that have no value and cannot be used shall be destroyed and if requested by interested persons or institutions, such goods shall be transmitted to them;

4) money and other valuables obtained through criminal actions or that were the targets of criminal actions shall be returned to the owners or, as the case may be, shall accrue to the state income. Other objects shall be returned to their legal owners and if such are not identified, shall be transferred to the state property. A conflict about the ownership on these objects shall be settled in line with civil procedures. Money marked as evidence of a criminal action shall accrue to the state income and its equivalent shall be refunded to the owner from the state budget;

5) documents that are material evidence shall remain in the case file for the entire duration of the case or upon request shall be returned to interested persons;

6) objects seized by a criminal investigative body not acknowledged as material evidence shall be returned to the persons they were seized from.

(2) The value of any objects that decompose or are damaged or lost as a result of an expert evaluation and other legal actions shall be charged to judicial expenses. Should such objects belong to the accused/defendant or to a civilly liable party, their value shall not be refunded. Should such objects belong to other persons, their value shall be refunded from the state budget and may be collected from the convicted or the civilly liable party.

(3) If a person is acquitted or discharged due to rehabilitation, the value of objects decomposed or lost during an expert evaluation or other legal actions shall be refunded from the state budget to the legal owner or possessor irrespective of his/her procedural status.

(4) Should material evidence be transmitted to a destination as per art. 161 para. (3), the legal owner or, as the case may be, possessor shall have goods of the same kind and quality returned or shall be paid their value based on the market price at the moment of refund.

[Art.162 amended by Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]
[Art.162 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 163. Transcript of Procedural Actions

Transcript of procedural actions prepared in line with this Code shall be sources of evidence if they confirm the circumstances established during an investigation at the crime scene; a corporal search; a search of a domicile; the seizure of objects, documents or correspondence; sampling for an expert evaluation; an oral declaration about a crime; presentation for identification; the exhumation of a corpse; the verification of statements made at the crime scene; the reconstruction of an event; wiretapping, and other methods of gathering evidence.

Article 164. Audio or Video Recordings, Pictures and Other Media Information

Audio or video recordings, pictures, and other information gathered by means of technical and electronic media in line with this Code shall be sources of evidence if they contain weighty data or indications about the preparation or commission of a crime and if their content contributes to finding the truth in the respective case.

Title V
COERCIVE PROCEDURAL MEASURES

Chapter I
DETENTION

Article 165. Notion of Detention

(1) Detention is the deprivation of a person's liberty for a short period of time, however, not longer than 72 hours, in places and under conditions set by law.

(2) Subject to detention shall be:

1) persons suspected of committing a crime for which the law provides for a punishment of imprisonment for a term exceeding one year;

2) an accused/defendant who violates conditions of preventive measures not depriving them of liberty if the crime is punished by imprisonment;

3) convicted persons referred to in judgments on canceling their convictions with a conditional suspension of the execution of punishment or on the cancellation of a conditional pre-term exemption from punishment.

(3) A person may be detained based on:

1) the transcript if there are justifiable reasons to suspect the person committed the crime;

2) an order of the criminal investigative body;

3) a court judgment on the detention of a convicted person prior to the settlement of the issue on the cancellation of the conviction or the conditional suspension of the execution of punishment, or the cancellation of a pre-term conditional exemption from punishment or, as the case may be, on the detention of a person for the commission of a crime during the case hearing.

Article 166. Grounds for Detaining a Person Suspected of Committing a Crime

(1) A criminal investigative body shall have the right to detain a person if there is a reasonable suspicion that he/she committed a crime for which the law provides for punishment by imprisonment exceeding one year only if:

1) he/she was captured in the act;

2) an eye witness, including the victim, indicates that this person committed the crime;

3) obvious evidence of the crime is discovered on the body or clothes of the person, in his/her domicile or means of transport.

(2) In other circumstances that substantiate a reasonable suspicion that a person committed a crime the person may be detained only if he/she tries to hide or has no permanent domicile or his/her identity can not be established.

(3) The detention of a suspect may be ordered if there are reasonable grounds to assume that he/she will evade a criminal investigation, prevent the finding of the truth or will commit other crimes.

(4) An adult may be detained based on the grounds specified in para. (1) prior to the registration of the crime in the manner duly set forth in the law. The crime shall be registered

immediately, however, no later than three hours from the moment the detained person is brought to the criminal investigative body. If the act for which the person was detained is not duly registered, he/she shall be immediately released, except for the cases set forth in Art. 273 para. (1) point (2).

(5) The detention of a person in line with this article may not exceed 72 hours from the moment of the deprivation of his/her liberty.

(6) The detention of a juvenile may not exceed 24 hours.

(7) A person detained in line with this article shall be brought as soon as possible from the moment of his/her detention and prior to the term specified in paras. (5) and (6) before the investigative judge who shall examine the issue of his/her arrest or release. A motion to arrest a detained person shall be filed at least three hours prior to the expiry of the term of detention. The prosecutor shall issue, within the terms set out in paras. (5) and (6), an order for the release of the detained person or, as the case may be, shall file a motion with the investigative judge in line with art. 307.
[Art.166 in version of Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.166 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 167. Procedure for Detaining a Person

(1) The criminal investigative body shall, within three hours from the moment a person is deprived of his/her liberty, prepare the transcript of every case of detention of persons suspected of a crime. The transcript shall cover the grounds, the reasons for and the place, year, month, date and hour of detention; the act committed by the respective person; the results of a corporal search of the detainee and the date and hour of the transcript. The transcript shall be brought to the notice of the detainee. At the same time, he/she shall be provided with written information about the rights set forth in art. 64, including the right to keep silent, not to testify against himself/herself, to provide explanations that will be included in the transcript, to benefit from the assistance of a defense counsel and to make statements in his/her presence and a note to that effect shall be made in the transcript. The transcript of detention shall be signed by the person that prepared it and by the detainee. The person who issued the transcript shall within three hours from the time of detention notify the prosecutor in writing about the detention.

(1^1) The criminal investigative body shall within one hour from the time of detention of a person require that the Regional Office of the National Council for the Legal Assistance Guaranteed by the State or other authorized persons appoint an attorney to provide urgent legal assistance. The request for the appointment of an attorney shall be filed in writing, including by fax, or by telephone.

(2) A detainee shall be immediately informed about the reasons for his/her detention only in the presence of a selected defense counsel or a court-appointed attorney providing urgent legal assistance.

(2^1) The criminal investigative body shall ensure that there is a place where the detainee and his/her defense counsel can communicate confidentially before his/her first interrogation.

(3) If a juvenile is detained, the person conducting the criminal investigation shall immediately notify the prosecutor and the parents of the juvenile or the persons replacing them.

(4) A detainee shall be interrogated in line with the provisions of arts. 103 and 104, if he/she consents to be interrogated.

(5) The detaining authority shall have the right to subject the detainee to a corporal search in line with art. 130.
[Art.167 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.167 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 168. The Right of Citizens to Capture a Person Suspected of Committing a Crime

(1) Anyone shall have the right to capture and forcibly take to the police or to any other public authority a person captured during the commission of a crime or who attempted to hide or to run away immediately after the commission of a crime.

(2) A person captured in line with para. (1) may be bound if he/she resists detention. Should there be reasonable grounds to assume that the captured person has weapons or any other dangerous objects or objects of an interest for the criminal case, the person who captured him/her may search his/her clothes and take the respective objects to be transmitted to the criminal investigative body.

(3) A person captured in line with this article and brought to a criminal investigative body shall either be detained in line with the provisions in arts. 166 and 167 or released.
[Art.168 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 169. Detention of a Person to Be Charged Based on an Order of a Criminal Investigative Body

(1) A criminal investigative body shall issue an order to detain a person when the evidence managed in the criminal case reasonably substantiates the assumption that he/she committed a crime and that the respective person is not in his/her given locality or if his/her location is unknown. This order shall be mandatory for any officer of a criminal investigative body or the police who find the suspect.

(2) The body that issued the order shall be immediately notified of the execution of the order on detention.

(3) A person shall be detained on the grounds set forth in para. (1) in line with the procedure and within the timeframes set forth in arts. 166 and 167.
[Art.169 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 170. Detention of a Person Based on the Order of a Criminal Investigative Body Prior to Arrest

(1) Should the accused violate the conditions provided for the preventive measures applied to him/her or the written obligation to appear when summoned by a criminal investigative body or by the court, and to inform either body about his/her new domicile, the prosecutor shall

have the right to issue an order for the detention of the accused by which a motion for his/her arrest shall be addressed concurrently to the investigative judge.

(2) Detention in line with para. (1) may not exceed 72 hours and shall apply only in cases when, by law, a person may be subject to preventive arrest.

Article 171. Detention of a Person Based on a Court Ruling if a Crime Is Committed during a Hearing

If during a hearing an act with the elements of a crime provided for in criminal law is committed, the chairperson of the court hearing shall order the identification of the person who committed the crime and his/her detention. A note to that effect shall be made in the transcript of the hearing. The court shall issue a ruling on transmitting materials to the prosecutor and on the detention of the person. A copy of the ruling and the detainee shall be immediately transferred to the prosecutor under the escort of the court police. Upon receipt of the materials and when the detainee is brought before the court, the prosecutor shall act in line with the law.

[Art.172 excluded by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 173. Notification of Detention

(1) The person who issued the transcript of detention shall immediately or not later than within six hours provide the detainee with the possibility to notify one of his/her close relatives or any other person the detainee suggests of the place of his/her detention, or he/she shall notify them by himself/herself.

(2) Should the detainee be a citizen of another state, the embassy or the consulate of this state shall be notified of his/her detention upon the request of the detainee within the term specified in para. (1).

(3) Should the detainee be a serviceperson, the military unit where he/she is serving or the military center where he/she is registered and the persons mentioned in para. (1) shall be notified.

(4) In exceptional cases, if required by the special nature of the case and in order to ensure the confidentiality of the initial stage of a criminal investigation and with the consent of the investigative judge, notification of detention shall be allowed within a term not exceeding 72 hours from the time of detention except when the detainee is a juvenile.

(5) If following the detention of a person, juveniles or other persons he/she supports or his/her goods remain unsupervised, the criminal investigative body shall undertake the measures provided in art. 189.

Article 174. Release of a Detainee

(1) A detainee shall be released when:

1) the reasons for suspecting the detainee of the commission of a crime are not confirmed;

2) the grounds to further deprive the person of liberty are absent;

3) the criminal investigative body states that the detention of the person represents an essential violation of the law;
4) the term for detention has expired;
5) the court does not authorize the arrest of the person.

(2) A released detainee may not be detained again on the same grounds.

(3) Upon release, a detainee shall be handed an affidavit specifying the detaining authority, the grounds for and place and time of detention and the grounds for and time of release.
[Art.174 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter II
PREVENTIVE MEASURES

Article 175. Notion and Categories of Preventive Measure

(1) Coercive measures by which a suspect/accused/defendant is prevented from certain negative actions targeted against a criminal proceeding or against securing the enforcement of a sentence are preventive measures.

(2) Preventive measures are aimed at ensuring a proper criminal proceeding or at preventing the suspect/accused/defendant from evading from a criminal investigation or the court so that he/she does not impede finding the truth or at ensuring court enforcement of the sentence.

(3) Preventive measures are:
1) an interdiction from leaving the locality;
2) an interdiction from leaving the country;
3) a personal guarantee;
4) the guarantee of an organization;
5) a temporary revocation of a license to operate means of transport;
6) transferring a serviceperson under supervision;
7) transferring a juvenile under supervision;
8) provisional release under judicial control;
9) provisional release on bail;
10) house arrest;
11) preventive arrest.

(4) House arrest and preventive arrest may be applied only to a suspect/accused/defendant. The transfer under supervision of a person shall be applied only to juveniles. Transfers under the supervision of the commander of a military unit shall be applied only to servicepersons and to persons liable for military service during military mobilizations. The temporary revocation of a license to operate means of transport may be applied as the main preventive measure or as a complementary measure to any other preventive measure.

(5) Provisional release under judicial control and provisional release on bail are preventive measures that are alternatives to arrest and may be applied only to the persons referred to in the motion to arrest or to a suspect/accused/defendant already under arrest.
[Art.175 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 176. Grounds for Preventive Measures

(1) Preventive measures may be applied by the prosecutor ex officio or upon the proposal of the criminal investigative body or, as the case may be, by the court only when there are sufficient, reasonable grounds to assume that the suspect/accused/defendant could evade the criminal investigative body or the court, could impede finding the truth in a criminal proceeding or could commit other crimes. Such measures may be also applied by the court to secure the enforcement of a sentence.

(2) Preventive arrest and the preventive measures that are alternatives to arrest shall be applied if there is a reasonable suspicion about the commission of a crime for which the law provides for the deprivation of liberty for more than two years. If there is a reasonable suspicion about the commission of a crime for which the law provides for the deprivation of liberty for fewer than two years, these preventive measures shall be applied if the accused/defendant committed at least one of the actions mentioned in para. (1).

(3) The criminal investigative body and the court shall consider the following complementary criteria when settling the issue on the need for a respective preventive measure:

1) the nature and prejudicial degree of the incriminating act;
2) the personality of the suspect/accused/defendant;
3) his/her age and health;
4) his/her occupation;
5) the family's status and persons supported;
6) his/her material condition;
7) the availability of a permanent domicile;
8) other essential circumstances.

(4) Should there be no grounds to apply a preventive measure to a suspect/accused/defendant, he/she shall submit a written obligation to appear when summoned by a criminal investigative body or the court and to inform them about any change in domicile.
[Art.176 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 177. The Act Imposing a Preventive Measure

(1) The prosecutor managing or conducting the criminal investigation shall issue ex officio or at the request of the criminal investigative body a reasoned order for applying a preventive measure and the court shall issue a reasoned ruling referring to the crime the person is suspected or accused of and the grounds for the respective preventive measure indicating the specific data that substantiate this preventive measure. The order of the prosecutor or the ruling of the court shall refer to the fact that the accused/defendant was told about the consequences of violating the preventive measure applied.

(2) Preventive arrest, house arrest, the provisional release of a person on bail and the provisional release of a person under judicial control shall be applied only in line with a court judgment based on a motion of the prosecutor and ex officio and issued while hearing the respective case. House arrest, provisional release on bail and provisional release under judicial control shall be applied by the court as alternatives to preventive arrest based on a request of the criminal investigative body or of the defense.

(3) A copy of the order or the ruling on preventive measures shall be immediately handed over to the person to whom such measures are applied and shall explain the manner and the terms to appeal against such judgments set forth in art. 196.

Article 178. Interdiction from Leaving a Locality or Interdiction from Leaving the Country

(1) An interdiction from leaving a locality is an obligation imposed in writing on a suspect/accused/ defendant by the prosecutor or the court to be at the disposal of a criminal investigative body or the court and not to leave the locality where he/she permanently or temporarily lives without the consent of the prosecutor or the court, not to hide from the prosecutor or the court, not to impede a criminal investigation and a case hearing, to appear when summoned by the criminal investigative body and the court and to inform them about any change of domicile.

(2) An interdiction from leaving the country is an obligation imposed on a suspect/accused/ defendant by the prosecutor or the court not to leave the country without the consent of the body that ordered the application of this measure and other obligations set forth in para. (1).

(3) The duration of the preventive measures set forth in paras. (1) and (2) may not exceed 30 days and may be extended only with justification. An extension shall be ordered by the prosecutor and every extension may not exceed 30 days.

(4) A copy of the final judgment of the prosecutor or the court issued in line with this article shall be sent to the police in the territorial jurisdiction in which the accused/defendant lives, or as the case may be, to the border authorities to execute and to provisionally revoke the passport of the accused/defendant in the case set forth in para. (2).
[Art.178 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 179. Personal Guarantee

(1) A personal guarantee is a written commitment undertaken by trustworthy persons that they by virtue of their authority and the money they have deposited guarantee the behavior of the suspect/ accused/defendant including keeping public order, appearing when summoned by a criminal investigative body or the court and meeting other procedural obligations. The number of guarantees may not be fewer than two or more than five.

(2) A personal guarantee as a preventive measure shall be admitted only upon the written request of the guarantors and with the consent of the person subject to the guarantee.

(3) Upon the written submission of a guarantee, every guarantor shall pay into the deposit account of the prosecutor's office or the court the amount of 50 to 300 conventional units.

(4) The rights and obligations of the guarantor and the manner for providing a guarantee are described in Art. 181.

Article 180. Guarantee by an Organization

(1) A guarantee by an organization is a written commitment undertaken by a trustworthy legal entity that it by virtue of its authority and the money it has deposited guarantees the behavior of the suspect/accused/defendant including keeping public order, appearing when summoned by a criminal investigation body or the court and meeting other procedural obligations.

(2) By assuming such a guarantee, the legal entity shall pay into the deposit account of the prosecutor's office or the court the amount of 300 to 500 conventional units.

(3) The rights and obligations of the guaranteeing organization and the manner for providing a guarantee are described in art. 181.

Article 181. The Manner for Ordering and Providing a Guarantee by Individuals and Legal Entities

(1) A personal guarantee and a guarantee by an organization shall be ordered by the prosecutor managing or conducting the criminal investigation or in a ruling issued by the court.

(2) The prosecutor or the court, upon establishing that the guarantor is trustworthy and that the suspect/accused/defendant may avail of a personal guarantee or a guarantee by an organization as set forth in arts. 179 and 180 shall decide on such preventive measures and the guarantor shall be notified of the nature of the case and of his/her obligations. The guarantor shall confirm his/her request or shall withdraw it and a note to that effect shall be included in the transcript.

(3) A guarantor shall have the right to waive a guarantee he/she/it has assumed at anytime during a criminal proceeding. Should the waiver of the guarantee occur as a result of a new charge being pressed, of new circumstances the guarantor was not aware of and could not have been aware of at the moment of the guarantee, of the failure of the guarantor to further secure the behavior of the accused/defendant due to departure to a different locality or to the serious illness of the guarantor, and of the liquidation of the legal entity, departure to a different locality or transfer to another organization of the accused/defendant, the amount deposited to secure the guarantee shall be refunded to the guarantor by the body that ordered the guarantee.

(4) The guarantor may also receive the amount deposited to secure the guarantee if:

1) the prosecutor or the court changes the preventive measure due to reasons unrelated to the behavior of the accused/defendant or revokes the preventive measure;

2) the guaranteeing legal entity loses its legal capacity and cannot secure the guarantee.

(5) The amount deposited by the guarantor to secure the guarantee shall accrue to the state based on a court judgment if the guarantor:

1) does not meet the obligation to ensure the behavior of the suspect/accused/defendant;

2) unjustifiably waives the guarantee he/she/it has assumed.

(6) A judgment issued in the manner set forth in para. (5) by which the amount deposited to secure a guarantee accrues to the state may be subject to cassation by a higher court.

Article 182. Temporary Revocation of a License to Operate Means of Transport

(1) The temporary revocation of a license to operate means of transport is a preventive measure applied to persons for the commission of crimes involving transportation and when a means of transport is used for the commission of a crime.

(2) The temporary revocation of a license to operate means of transport may be applied as the main measure or as a measure complementary to any other preventive measure and shall be ordered by the investigative judge upon a justified motion of the prosecutor managing or conducting the criminal investigation or by a ruling issued by the court.

(3) A copy of the court ruling on the temporary revocation of a license to drive a means of transport shall be transmitted for enforcement to the traffic police or to the body authorized to issue such licenses.
[Art.182 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 183. Transferring a Serviceperson under Supervision

(1) The transfer under supervision of a military suspect/accused/defendant implies the obligation of the commander of the military unit to ensure the behavior and appearance of the military suspect/ accused/defendant when summoned by a criminal investigative body or the court. Transferring a serviceperson under supervision shall be ordered by the prosecutor or, as the case may be, by the court.

(2) The commander of the military unit shall be handed the order for the preventive measure of transferring a serviceperson under supervision and shall be informed about the essence of the case, and about his/her obligations and liability and a note to that effect shall be made in the transcript.

(3) The commander of a military unit shall have the right to apply to a supervised serviceman the measures provided in the Regulations on Military Discipline in order to meet the obligations he/she has undertaken.

(4) For the entire duration of the preventive measure, the serviceperson transferred under supervision shall be deprived of the right to carry weapons and shall not be assigned to a job outside the military unit.

(5) Should the military suspect/accused/defendant commit the actions set forth in art. 176 para. (1), the commander shall immediately notify the prosecutor or the court that applied this measure.

(6) The persons obliged to supervise the military suspect/accused/defendant who do not meet their obligations shall be liable in line with the Regulations on Military Discipline.
[Art.183 amended by Law No. 224-XVI dated 25.10.2007, in force as of 30.11.2007]

Article 184. Transferring a Juvenile under Supervision

(1) Transferring a juvenile under supervision implies the written obligation of one of the parents, a tutor, a custodian or any other trustworthy person as well as of the manager of the special educational institution where the juvenile studies to ensure his/her appearance when summoned by a criminal investigative body or the court and to prevent the actions set forth in art. 176 para. (1).

(2) Prior to transferring a juvenile under supervision, the prosecutor or the court shall request from the tutelage authority information on the persons to whom the juvenile shall be transferred to make sure that they are able to ensure his/her supervision. Upon deciding that

this preventive measure may be applied to the juvenile, the prosecutor shall issue an order or the court shall issue a ruling on its application.

(3) A juvenile shall be transferred under supervision only upon the written request of the persons specified in para. (1) who shall be informed about the essence of the case and their obligations, and a note to that effect shall be made in the transcript.

(4) Should the person to whom the juvenile was transferred under supervision violate his/her obligations, he/she may be subjected by the investigative judge or by the court to a fine in the amount of 10 to 25 conventional units. A judgment on a court fine issued in line with this paragraph may be subject to cassation.

Article 185. Preventive Arrest

(1) Preventive arrest implies keeping the suspect/accused/defendant under arrest in places and under conditions provided for in the law.

(2) Preventive arrest may be applied in the cases and under the conditions set forth in art. 176 and if:

1) the suspect/accused/defendant does not have a permanent domicile in the Republic of Moldova;

2) the identity of the suspect/accused/defendant is not established;

3) the suspect/accused/defendant violates the conditions of other preventive measures applied to him/her.

(3) While settling the issue of preventive arrest, the investigative judge or the court shall be entitled to order house arrest, provisional release under judicial control or provisional release on bail.

(4) The ruling on preventive arrest may be subject to cassation in a higher court.

Article 186. Duration of a Person's Arrest and Its Extension

(1) The term of a person's arrest shall start from the moment of the deprivation of his/her liberty by detention and if not detained from the moment of the enforcement of a court judgment on the application of this preventive measure. The term of arrest of the suspect/accused/defendant shall include the time during which the person:

1) was detained and preventively arrested;

2) was under house arrest;

3) upon the decision of the investigative judge or the court was in a medical institution for the purpose of an in-patient evaluation and treatment if coercive medical measures were applied.

(2) The term of a person's arrest during a criminal investigation prior to the case going to court shall not exceed 30 days except in cases provided by this Code.

(3) In exceptional cases depending on the complexity of the criminal case, the seriousness of the crime and if there is a risk that the accused will disappear or that he/she will exert pressure on witnesses or destroy or damage sources of evidence, the duration of preventive arrest during the criminal investigation may be extended:

1) up to 6 months if the person is charged with the commission of a crime for which the law sets a maximum punishment of up to 15 years of imprisonment;

2) for up to 12 months if the person is charged with the commission of a crime for which the law sets a maximum punishment of up to 25 years of imprisonment or life imprisonment.

(4) The duration of preventive arrest of juveniles accused of a crime may be extended for up to four months.

(5) Any extension of the duration of preventive arrest may not exceed 30 days during a criminal investigation and 90 days during a case hearing.

(6) If it is necessary to extend the duration of preventive arrest of the accused/defendant, the prosecutor shall, not later than within five days prior to the expiry of the term of arrest, file with the investigative judge or the court hearing the case a motion to extend the term. On the date the sentence is issued, should the term of preventive arrest remaining be fewer than 15 days, upon a motion by the prosecutor, the court shall decide whether to extend the term of preventive arrest prior to issuing the sentence.

(7) By examining a motion to extend a term of preventive arrest, the investigative judge or the court shall be entitled to replace preventive arrest with house arrest, provisional release under judicial control or provisional release on bail.

(8) Upon receipt of a case by the court, the term of the case hearing from the date of the receipt of the case until the date of the sentence the time during which the defendant is kept under arrest may not exceed 6 months if the person is charged with the commission of a crime for which the law sets a maximum punishment of up to 15 years of imprisonment and 12 months if the person is charged with the commission of a crime for which the law sets a maximum punishment of up to 25 years of imprisonment or life imprisonment.

(9) Upon the expiry of the terms set in paras. (5) and (8), the term of a case hearing with a defendant under arrest may be extended only in exceptional cases upon a motion by the prosecutor and by a reasoned ruling of the court hearing the case in each instance by three months until the sentence is pronounced.

(10) The court judgment on extending the term of a case hearing with a defendant under arrest may be subject to cassation in a higher court. Cassation against the judgment shall not suspend the hearing of the case.

(11) The provisions set in paras. (5), (6), (8), (9) and (10) shall be duly applied to a case hearing in appeal.

(12) An extension of the duration of preventive arrest to six months shall be decided by the investigative judge based on a motion by the prosecutor in whose territorial jurisdiction the criminal investigation is conducted or if necessary, the extension of preventive arrest beyond the indicated term shall be based on a motion of the same prosecutor with the consent of the Prosecutor General or his/her deputies.

(13) The judgment on extending the term of preventive arrest may be subject to cassation in a higher court.

[Art.186 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 187. Obligations of the Administrations of Institutions for Detention or Arrest

The administration of an institution for detention or arrest shall:

1) ensure the security of detainees and provide them with necessary protection and assistance;

2) ensure detainees' access to independent medical care;

3) hand over on the same day to detainees copies of procedural documents addressed to them;

4) ensure the registration of complaints and requests filed by detainees;

5) send on the same day complaints and other requests of detainees addressed to the court, prosecutor or other employees of the criminal investigative body and not subject them to any control or censorship;

6) prepare the transcript of a detainee's refusal to be brought before the court;

7) allow free and confidential visits of a detainee with his/her defense counsel, legal representative, mediator and not limit the number and duration of such visits;

8) ensure that the detainee is brought to the criminal investigative body or the court at the time specified by them;

9) at the request of the criminal investigative body or the court, ensure the possibility that procedural actions involving the detainee are undertaken at the place of detention;

10) based on the judgment of the criminal investigative body or the court, transfer a detainee to another place of detention and meet other requirements of this body to the extent they do not contradict the detention regime set out in the law;

11) seven days prior to the expiry of the term of detention inform the respective body thereof;

12) immediately release persons detained without the ruling of a judge or whose term of detention set by a judge has expired;

13) hand over to persons released the affidavit as per the provisions in art. 174 para. (3).

Article 188. House Arrest

(1) House arrest implies the isolation of the suspect/accused/defendant from society in his/her house in which certain restrictions shall be set.

(2) House arrest shall be applied to a suspect/accused/defendant based on the judgment of the investigative judge or the court in the manner set forth in arts. 185 and 186 and under conditions allowing a preventive measure in the form of arrest but for which his/her total isolation is not rational due to his/her age, health, family status or any other circumstances.

(3) House arrest shall be accompanied by one or several restrictions:

1) an interdiction from leaving the house;

2) restrictions on telephone conversations, receiving and mailing correspondence and using other means of communication;

3) an interdiction from communicating with certain persons or hosting people in his/her house.

(4) A person under house arrest may be subject to the obligation:

1) to keep electronic means of control functional or to permanently carry such on their person;

2) to respond to control signals or to send telephonic control signals and to personally appear before the criminal investigative body or the court at a set time.

(5) The enforcement of house arrest shall be supervised by the body vested with such duties.

(6) The term, manner of application, extension and appeal against house arrest shall be similar to those for preventive arrest.

(7) Should the suspect/accused/defendant violate the restrictions and obligations set by the investigative judge or the court, house arrest may be replaced by preventive arrest by the court ex officio or upon a motion by the prosecutor.
[Art.188 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 189. Right of a Detainee or Arrestee to Protective Measures

(1) Should a detainee or arrestee have under his/her protection juveniles, persons declared mentally disabled, persons under tutelage or persons who due to their age, health or any other reason need help, the competent authorities shall be notified thereof so that protective measures are offered to these persons. The body that detained or preventively arrested a person shall be obliged to notify the authorities about the need for protective measures.

(2) The orders of the criminal investigative body or the court on the preventive measures to be applied to the persons specified in para. (1) left without protection shall be mandatory for the tutelage authority and for the chiefs of state medical or social institutions. The criminal investigative body or the court may transfer juveniles, persons declared mentally disabled or aged persons to the protection of their relatives upon their consent.

(3) A person whose goods are left without any supervision following detention, preventive arrest or house arrest shall have the right to the supervision of these goods including taking care of and feeding domestic animals as ensured by the criminal investigative body upon the request of this person and at his/her expense. The orders of the criminal investigative body or the court ensuring the supervision and care of the person's goods shall be mandatory for the chiefs of respective state institutions.

(4) The protective measures set forth in this article shall be also applied to persons under the protection of an injured party and to their goods and domicile.

(5) The criminal investigative body or the court shall immediately notify a detainee, a person preventively arrested or under house arrest and other interested persons about protective measures undertaken in line with this article.

Article 190. Provisional Release of an Arrestee

A person preventively arrested under the conditions in art. 185 may request during the entire course of a criminal proceeding to be temporarily released under judicial control or on bail.

Article 191. Provisional Release of an Arrestee under Judicial Control

(1) The provisional release under judicial control of a person under preventive arrest, of a detainee or of a person in whose case an arrest request was filed may be granted by the

investigative judge or, as the case may be, the court and shall imply one or several of the obligations set forth in para. (3).

(2) Provisional release under judicial control shall not be granted to a suspect/accused/defendant if he/she has records of pending convictions for serious, especially serious or exceptionally serious crimes or if there are indications that he/she will commit another crime, will try to influence witnesses, will destroy sources of evidence or will evade justice.

(3) The provisional release under judicial control of an arrestee shall imply one or several obligations as follow:

1) not to leave the place of his/her domicile other than under the conditions set by the investigative judge or, as the case may be, by the court;

2) to notify the criminal investigative body or, as the case may be, the court about any change of domicile;

3) not to appear in specifically determined places;

4) to appear whenever summoned by the criminal investigative body or, as the case may be, by the court;

5) not to contact specific persons;

6) not to commit any actions preventing the finding of the truth in a criminal proceeding;

7) not to drive vehicles or not to practice a profession used by him/her in the commission of the crime;

8) to leave his/her passport with the investigative judge or the court.

(4) The police in the territorial jurisdiction in which a suspect/accused/defendant temporarily released lives shall exert control over him/her meeting the obligations set by the court.

(5) Judiciary control over a temporarily released person may be canceled, integrally or partially, for justifiable reasons and in the manner set for this measure.

[Art.191 amended by Law No. 410-XVI dated 21.12.2006, in force as of 31.12.2006]
[Art.191 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 192. Provisional Release of an Arrestee on Bail

(1) The provisional release on bail of a person under preventive arrest or of a detained person or of a person in whose case an arrest request was filed may be granted if the recovery of the damage caused by the crime is secured and if the bail set by the investigative judge or by the court has been deposited.

(2) A provisional release on bail shall not apply if one of the cases set forth in art. 191 para. (2) occurs.

(3) In the course of his/her provisional release on bail, the person shall be obliged to appear when summoned by the criminal investigative body or by the court and to notify them about any change of domicile. Other obligations set forth in art. 191 para. (3) may be applied to a person provisionally release on bail.

(4) The amount of bail shall be set by the investigative judge or by the court ranging from 300 to 100,000 conventional units depending on the financial condition of the respective person and the seriousness of the crime.

[Art.192 amended by Law No. 410-XVI dated 21.12.2006, in force as of 31.12.2006]

Article 193. Revoking Provisional Release

(1) Provisional release may be revoked if:

1) facts or circumstances are discovered that were unknown at the date the release request was accepted and that impede provisional release;

2) the accused/defendant maliciously does not meet the obligations set or commits a new crime with intent.

(2) If provisional release is revoked, the person shall be subject to preventive arrest.

Article 194. Refunding Bail

(1) Bail shall be refunded if:

1) provisional release is revoked on the grounds specified in art. 193 para. (1) point 1);

2) the investigative judge or the court state that there is an absence of grounds to justify preventive arrest;

3) the criminal proceeding terminates and a discharge or acquittal is ordered;

4) the court that tried the case in the first instance sets a punishment in a final judgment.

(2) Bail shall not be refunded if the provisional release is revoked on the grounds set forth in art. 193 para. (1) point 2) and shall accrue to the state budget through the investigative judge or, as the case may be, the court. The judgment on transferring bail to the state may be subject to cassation by interested persons.

Article 195. Replacing, Revoking or Ceasing Preventive Measures on Legal Grounds

(1) In order to ensure the normal course of a criminal proceeding and the enforcement of the sentence, a preventive measure may be replaced by a more severe one if the need for such a measure is supported by evidence, or it may be replaced by a milder one if such a measure will ensure the personal behavior of the suspect/accused/defendant.

(2) A preventive measure shall be revoked by the body that ordered it if the grounds for it no longer exist.

(3) A preventive measure in the form of preventive arrest, house arrest, provisional release under judicial control, and provisional release on bail may be replaced or revoked by the investigative judge or, as the case may be, by the court.

(4) If detention or preventive arrest are replaced or revoked, the respective body shall send on the same day to the administration of the place of detention a copy of the judgment.

(5) A preventive measure shall cease on legal grounds:

1) upon the expiry of the terms provided by law or set by the criminal investigative body or by the court, provided that such terms were not extended in line with the law;

2) if the person is discharged, the criminal proceeding is discontinued or the person is acquitted;

3) if a conviction sentence is being enforced.

(6) A preventive measure that deprives liberty shall cease on legal grounds if a conviction sentence not depriving liberty is issued.

(7) In the case mentioned in para. (5) point 1) the administration of the place of detention or arrest shall be obliged to immediately release the detainee or arrestee.

(8) In the cases mentioned in para. (5) point 2) and para. (6), the prosecutor, the investigative judge or, as the case may be, the court shall be obliged to immediately send copies of the respective judgment to the place of arrest to be enforced.

Article 196. Appeals against Judgments on Preventive Measures

(1) The order of the prosecutor for the application, extension or replacement of a preventive measure may be appealed in a complaint addressed to the investigative judge by the suspect/accused or by their defense counsel or legal representative.

(2) The judgment of the investigative judge or the court applying, extending or replacing a preventive measure may be subject to cassation in a higher court.

Chapter III
OTHER COERCIVE PROCEDURAL MEASURES

Article 197. Other Coercive Procedural Measures

(1) In order to ensure the method set out in this Code for a criminal investigation, a case hearing, and the enforcement of a sentence, the criminal investigative body, the prosecutor, the investigative judge or the court, based on their competence, shall have the right to apply to the suspect/accused/ defendant other coercive procedural measures such as:

1) the obligation to appear;
2) summoning by force;
3) provisional suspension from office;
4) measures securing the recovery of the damage caused by the crime;
5) measures securing the execution of a punishment by fine.

(2) In cases set forth in this Code, the criminal investigative body or the court shall have the right to apply to the injured party, witness or to other participants in the proceeding the following coercive procedural measures:

1) the obligation to appear;
2) summoning by force;
3) court fine (applied only by the court).

Article 198. The Obligation to Appear before the Criminal Investigative Body or the Court

(1) If applying preventive measures to a suspect/accused/defendant is irrational, in order to ensure the normal course of a criminal proceeding the criminal investigative body or the court may require from the suspect/accused/defendant a written obligation to appear at a date and time set and if there is a change of domicile to be immediately notified thereof. The written obligation shall also cover the consequences of the failure to meet it.

(2) A written obligation to appear before a criminal investigative body or a court may be required also from an injured party, witness or other participants in the proceeding in order to ensure their presence in a criminal proceeding.

Article 199. Summoning by Force

(1) Summoning by force consists of bringing before a criminal investigative body or a court a person who on being summoned in the manner duly set out in the law does not appear due to unjustifiable reasons and does not notify the body summoning him/her about his/her inability to appear when his/her presence was necessary.

(2) Subject to summoning by force shall be only the person participating in the proceeding for whom summoning by a criminal investigative body or by the court is mandatory and who:

1) avoids receiving the summons;
2) hides from the criminal investigative body or the court;
3) has no permanent domicile.

(3) Summoning by force shall be based on an order issued by a criminal investigative body or a ruling issued by the court.

(4) A person may not be summoned by force during nighttime except in urgent cases.

(5) Juveniles aged under 14, pregnant women and sick persons whose condition is confirmed by a medical certificate issued by a state medical institution may not be summoned by force.

(6) Summoning by force shall be done by the police.

Article 200. Provisional Suspension from Office

(1) Provisional suspension from office consists of provisionally and justifiably prohibiting the accused/defendant from performing his/her official duties or practicing activities he/she deals with or practices in the interest of public service.

(2) The payment of the salary to a person suspended from office shall be interrupted; however, the duration of provisional suspension from office applied as a coercive procedural measure shall be included in the total length of service of the person.

(3) Provisional suspension from office shall be decided by the administration of the institution employing the suspect/accused in line with the law at the request of the prosecutor managing or, as the case may be, personally conducting the criminal investigation. The decision of the administration of the institution on suspension from office may be appealed to the investigative judge.
[Art.200 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 201. Court Fine

(1) A court fine is a monetary sanction applied by the court to a person who commits a violation in the course of a criminal proceeding.

(2) A court fine shall be set in conventional units. A conventional unit of a court fine shall be equal to 20 lei.

(3) A court fine shall account for 1 to 25 conventional units.

(4) The following violations shall be sanctioned by a court fine:

1) the failure of any person present at a hearing to execute the measures undertaken by the chairperson of the hearing in line with the requirements of art. 334;

2) the failure to execute an order or a ruling on summoning by force;

3) the unjustified failure to appear of a witness, expert, specialist, interpreter, translator or defense counsel, and of the prosecutor legally summoned by the criminal investigative body or by the court and their failure to notify the body or court about their inability to appear when their presence is necessary;

4) if an expert, interpreter, or translator delays the execution of tasks assigned ;

5) the failure of the chief of an entity that is supposed to offer expertise to undertake the measures necessary to offer it;

6) the failure to meet the obligation to submit at the request of the criminal investigative body or the court objects or documents by the chief of the entity or by the person tasked with the execution of this obligation;

7) the failure to meet the obligation to store sources of evidence;

8) other violations for which this Code provides for a court fine.

(5) For violations committed during a criminal investigation, a court fine shall be levied by the investigation judge at the request of the person conducting the criminal investigation.

(6) For violations committed during a case trial, a court fine shall be levied by the court trying the case and the ruling on the court fine shall be included in the transcript of the hearing.

(7) The ruling of the investigative judge on judicial a court fine may be subject to cassation in a higher court by the person on whom the fine was imposed.

(8) The ruling of the court on a fine may be subject to cassation.

(9) A court fine shall not release the person from criminal liability if the act committed is construed as a crime.

[Art.201 amended by law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.201 amended by Law No. 148-XVI dated 08.06.06, in force as of 30.06.06]

Article 202. Measures for Securing the Recovery of Damages and for Guaranteeing the Execution of a Punishment by Fine

(1) A criminal investigative body ex officio or the court at the request of the parties may undertake during a criminal proceeding measures for securing the recovery of damages caused by the crime and for guaranteeing the execution of a punishment by fine.

(2) Measures for securing the recovery of damages consist of sequestering movable and real property in line with arts. 203–210.

(3) Measures for securing the recovery of damages may be undertaken on the goods of the suspect/ accused/defendant, of a civilly liable party in the amount of the estimated value of the damage.

(4) Measures for guaranteeing the execution of a punishment by fine shall be undertaken only on the goods of the accused or defendant.

Article 203. Sequestration

(1) Sequestering goods is a coercive procedural measure consisting of inventorying the goods and prohibiting the owner or possessor from disposing of those goods or, if necessary, to use such goods. Upon sequestering bank accounts and deposits, any operations with those accounts or deposits shall be terminated.

(2) Sequestering goods shall be done to secure the recovery of damage caused by the crime to secure a civil action and an eventual sequestration of the goods intended or used in the commission of a crime or resulting from the commission of the crime.
[Art.203 amended by Law No. 243-XVI dated 16.11.2007, in force as of 14.12.2007]

Article 204. Goods Subject to Sequestration

(1) The goods of the suspect/accused/defendant, and of the civilly liable party may be subject to sequestration in cases provided for in the law irrespective of the nature of the goods and of the person keeping them.

(2) Goods of the suspect/accused/defendant that are the common property of spouses or the family may be subject to sequestration. Should there be enough evidence that this common property was obtained or expanded by criminal means, all such property of the spouse or family or its largest part may be subject to sequestration.

(3) Food products of the owner, the possessor of the goods and of their family members; fuel; specialty literature; professional tools; tableware and kitchen utensils regularly used and of low value and other objects and essential goods may not be subject to sequestration, even though they can be subsequently sequestered.

(4) The goods of enterprises, institutions and organization except for the share of collective property that was illegally obtained and that may be separated without prejudicing their economic activity may not be subject to sequestration.

Article 205. Grounds for Sequestration

(1) Goods may be sequestered by a criminal investigative body or by the court only if the evidence collected supports the justified assumption that the suspect/accused/defendant or other persons keeping the goods subject to sequestration may conceal, damage or dispose of them.

(2) Sequestering goods shall be based on an order of a criminal investigative body and the authorization of an investigative judge or, as the case may be, on a court ruling. The prosecutor shall ex officio or at the request of a civil party address to the investigative judge a motion accompanied by the order of the criminal investigation body on the sequestration of goods. The investigative judge shall authorize in a resolution the sequestration of goods while the court shall decide on the requests of the civil party or of any other party, provided there is sufficient evidence to support the circumstances set forth in para. (1).

(3) The order of the criminal investigative body or, as the case may be, the court ruling on sequestering goods shall refer to material goods subject to sequestration to the extent such goods are established in the course of the investigation of the criminal case and the value of those goods is necessary and sufficient to secure a civil action.

(4) Should there be obvious doubt about the voluntary submission of goods to be sequestered, the investigative judge or, as the case may be, the court along with the authorization for sequestering material goods shall also authorize a search.

(5) In flagrant crimes or urgent cases, the criminal investigative body shall be entitled to sequester goods based on its own order without the authorization of the investigative judge who shall be mandatorily notified thereof immediately or not later than within 24 hours from the moment of this procedural action. Upon receipt of the respective information, the investigative judge shall verify the legality of the sequestration and confirm its results or shall declare it invalid. Should the sequestration be declared illegal, the investigative judge shall order the total or partial revocation of the sequestration.

Article 206. Assessing the Value of Goods to Be Sequestered

(1) The value of the goods to be sequestered shall be assessed based on the average market price in the respective locality, and no ratios shall be applied.

(2) The value of the goods sequestered to secure a civil action filed by a civil party or by the prosecutor shall not exceed the value of the civil action.

(3) By identifying the share of the goods to be sequestered of each of several accused persons or defendants or of several persons liable for their actions, the degree of these persons' participation in the commission of the crime shall be considered. The entire property of one of these persons may be sequestered to secure a civil action.

Article 207. Method for Executing an Order or a Judgment on Sequestering Goods

(1) A representative of a criminal investigative body shall hand, against signature, to the owner or possessor of the goods a copy of the order or the judgment on sequestering and submitting goods. If the owner or possessor refuses to voluntarily execute this requirement, the goods shall be sequestered forcibly. Should there be grounds to assume that the goods have been concealed by the owner or possessor, the criminal investigative body, having legal authority, shall be entitled to conduct a search.

(2) The sequestration of goods based on a court judgment issued upon the completion of a criminal investigation of the case shall be conducted by the enforcement agent.

(3) A merchandiser may be invited to participate in sequestering the goods to assess the approximate value of material goods and to avoid sequestering goods the value of which does not correspond to the value specified in the order of the criminal investigative body or in the court ruling.

(4) The owner or possessor of the goods present at the sequestration shall be entitled to specify which goods may be sequestered first to secure the amount specified in the order of the criminal investigative body or in the court judgment.

(5) The representative of the criminal investigative body shall prepare the transcript of the sequestration of goods in line with arts. 260 and 261, while the enforcement agent shall prepare the inventory of the goods sequestered. The transcript or, as the case may be, the inventory, shall in particular:

1) list all sequestered material goods by their quantity, measurement, or weight; the material they are made of and other individual elements and, to the extent possible, their value;

2) specify material goods seized and left for storage;

3) refer to the statements of the persons present and other persons about the ownership of the goods sequestered.

(6) A copy of the transcript or the inventory shall be handed, against signature, to the owner or possessor of the goods sequestered or in his/her absence to an adult member of his/her family or to a representative of the executive authority of the local public administration. Upon sequestering goods located on the premises of an enterprise, organization or institution, a copy of the transcript or the inventory shall be handed, against signature, to a representative of the administration.

Article 208. Storage of Sequestered Goods

(1) Sequestered goods, as a rule, shall be seized, except for real property and large objects.

(2) Precious metals, precious stones and articles thereof; foreign currency; securities and bonds shall be transmitted for storage to the State Depositary of Valuables in the line with the set procedure; monetary amounts shall be deposited into the deposit account of the court competent to try the respective criminal case; other objects seized shall be sealed and kept by the criminal investigative body that moved that the goods be sequestered, or shall be transmitted for storage to a representative of the executive authority of the local public administration.

(3) Unsealed sequestered goods shall be sealed and left for storage by the owner or possessor or an adult member of his/her family who receives an explanation of the liability provided in art. 251 of the Criminal Code for the appropriation, alienation, substitution or concealment of these goods and who signs the written receipt.

[Art.208 amended by Law No. dated 05.07.2007, in force as of 27.07.2007]

Article 209. Contesting the Sequestration of Goods

(1) The sequestration of goods may be contested in the manner duly set out in this Code; however, a complaint or cassation request filed shall not suspend sequestration.

(2) Persons other than the suspect/accused/defendant who consider that the sequestration of goods was illegal or unjustified shall be entitled to request that the criminal investigative body or the court revoke the sequestration of goods. Should the body or court refuse to satisfy the request or not to inform the respective person within 10 days from the date of its receipt about the results of the request, the person shall be entitled to request the revocation of the goods sequestered under a civil procedure. A court judgment on a civil action to revoke the

sequestration of goods may be subject to cassation by the prosecutor in a higher court within 10 days; however, upon becoming effective, it shall be mandatory for criminal investigative bodies and for the court trying the criminal case to settle the issue of whose goods shall be confiscated or, as the case may be, restored.

Article 210. Revoking the Sequestration of Goods in a Criminal Proceeding

(1) The sequestration of goods shall be revoked by a decision of the criminal investigative body or of the court if the civil action is withdrawn, if there is a change in the legal qualification of the crime the suspect/accused/defendant is charged with or if due to other reasons there is no longer a need to keep the goods under sequestration. The court, the investigative judge or the prosecutor within the limits of their competence shall also revoke the sequestration of goods if they state that the sequestration is illegal because the criminal investigative bodies acted without the necessary authorization.

(2) Upon the request of a civil party or any other interested person to have material damage repaired under a civil procedure, the criminal investigative body or the court shall also be entitled to keep the goods under sequestration after the criminal proceeding is discontinued, the person is discharged or acquitted or for one month from the date the respective judgment became effective.

Title VI
MEASURES OF CONFIDENTIALITY, PROTECTION AND OTHER PROCEDURAL MEASURES

Chapter I
CONFIDENTIALITY IN A CRIMINAL PROCEEDING

Article 211. Storing Criminal Case Files and Criminal Investigation Materials

(1) Criminal case files and criminal investigation materials shall be stored in the archives of the courts that heard the case in the first instance.

(2) Criminal case files and criminal investigation materials not transmitted to the court shall be stored in the archives of the body that prepared them.

(3) Criminal case files and criminal investigation materials containing state secrets shall be stored in the archives of the institutions mentioned in paras. (1) and (2) under the special conditions provided by the legislation currently in force.

(4) Access to case files and to materials stored under the conditions provided in this article shall be decided by the chief of the body or, as the case may be, by the president of the court where they are stored in line with the provisions in this chapter.

Article 212. Confidentiality of a Criminal Investigation

(1) Criminal investigation materials shall not be disclosed unless the disclosure is authorized by the person conducting the criminal investigation and to the extent he/she considers it possible during which the presumption of innocence shall be observed and the interests of other persons and of the criminal investigation shall not be affected.

(2) Should it be necessary to maintain confidentiality, the person conducting the criminal investigation shall warn witnesses, an injured party, a civil party, a civilly liable party or their representatives; defense counsel; experts; specialists; interpreters; translators and other persons attending criminal investigative actions about the prohibition from disclosing information on a criminal investigation. These persons shall make written statements confirming that they have been warned about their liability provided in art. 315 of the Criminal Code.

(3) The disclosure of data from a criminal investigation by the person conducting the criminal investigation or by the person authorized to control the activities in a criminal investigation, provided that such an action caused moral or material damage to a witness, an injured party or their representatives or disrupted the criminal investigation shall imply criminal liability provided art. 315 of the Criminal Code.

Article 213. Protecting State Secrets in a Criminal Proceeding

(1) In order to protect information constituting a state secret, in the course of a criminal proceeding measures provided in this Code, the Law on State Secrets and other normative acts shall be undertaken.

(2) Those persons required by a criminal investigative body or by the court to convey or to provide data constituting a state secret shall be entitled to make sure that these data are collected for the respective criminal proceeding; otherwise they shall be entitled to refuse to convey or to provide such data. Persons required by a criminal investigative body or by the court to convey or to provide data constituting a state secret may not refuse to execute this requirement citing the need to keep the state secret; however, they shall be entitled to receive in advance from the person conducting the criminal investigation or from the court an explanation that would confirm the need for the aforementioned data. The explanation shall be included in the transcript of the respective procedural action.

(3) A civil servant who makes statements on data constituting a state secret entrusted to him/her shall inform thereof in writing the chief of the state body dispensing such information, provided that the notification is not prohibited in writing by the criminal investigation body or by the court.

(4) A criminal investigation or a trial in cases related to information representing a state secret shall be entrusted only to persons who provide a written declaration of non-disclosure of such information. The declaration of non-disclosure shall be provided to the chief of the criminal investigative body or to the president of the court and shall be attached to the respective criminal case file.

(5) Defense counsels and other representatives and other persons who, in line with the criminal procedural norms are designated to take knowledge of or are notified in any other manner of data constituting a state secret shall provide in advance a written declaration of non-disclosure of these data. If a defense counsel or any other representative, except for a legal representative, refuses to make such a declaration, he/she shall be deprived of the right to participate in the respective criminal proceeding and other persons shall not have access to data constituting a state secret. The declaration of non-disclosure shall be taken from the persons specified in this paragraph by the person conducting the criminal investigation or by

the court and shall be attached to the respective criminal case file. The obligation of non-disclosure undertaken by the participants in the proceeding shall not prevent them from requesting that the data constituting a state secret be examined in a closed hearing.

Article 214. Keeping a Commercial Secret and Any Other Secret Protected by Law

(1) In order to protect information constituting a commercial secret or any other secret protected by law, in the course of a criminal proceeding measures provided in this Code, the Law on Commercial Secrets and other normative acts shall be undertaken.

(2) Information constituting a commercial secret or any other secret protected by law may not be managed, used or distributed without need during the course of a criminal proceeding.

(3) The persons required by a criminal investigative body or by the court to convey or to provide data constituting a commercial secret or any other secret protected by law shall be entitled to make sure that these data are collected for the respective criminal proceeding; otherwise they shall be entitled to refuse to convey or to provide such data. The persons required by a criminal investigative body or by the court to convey or to provide data constituting a commercial secret or any other secret protected by law may not refuse to execute this requirement citing the need to keep the secret; however, they shall be entitled to receive in advance from the person requiring the information a written explanation that confirms the need for the aforementioned data.

(4) A civil servant or an employee of an enterprise or an organization, irrespective of their form of property, who makes statements about data constituting a commercial secret or any other secret protected by law entrusted to him/her shall inform thereof the chief of the respective entity provided that the notification is not prohibited in writing by the criminal investigative body or by the court.

(5) Evidence disclosing information constituting a commercial secret or any other secret protected by law shall be examined upon the request of the parties in a closed hearing.

Chapter II
PROTECTIVE MEASURES

Article 215. Obligation of the Criminal Investigative Body or the Court to Undertake Measures Ensuring the Security of Participants in the Proceeding and Other Persons

(1) Should there be sufficient grounds to consider that the injured party, a witness or other persons participating in the proceeding or the members of their families or their close relatives may be or have been threatened with death, violence, the damage or destruction of their goods or with other illegal acts, the criminal investigative body and the court shall be obliged to undertake the measures provided in the legislation to protect the lives, health, honor, dignity and the goods of these persons and to identify the persons guilty of making the threats and subject them to liability.

(2) A request for protection of the persons specified in para. (1) shall be filed and settled by the criminal investigative body or by the court in a confidential manner. A judgment on providing state protection shall be immediately transmitted to the body vested with such

authority by the Law on State Protection for an Injured Party, Witnesses and Other Persons Providing Assistance in a Criminal Proceeding.

Chapter III
MEASURES ELIMINATING THE CIRCUMSTANCES THAT CONTRIBUTE TO THE COMMISSION OF CRIMES AND TO OTHER VIOLATIONS OF THE LAW

Article 216. Identifying the Reasons and Circumstances that Contributed to the Commission of a Crime

In the course of a criminal investigation and case trial, the criminal investigative body shall be obliged to identify the reasons and the circumstances that contributed to the commission of the crime.

Article 217. Notification by the Criminal Investigative Body

(1) Should the criminal investigative body identify the reasons and circumstances that contributed to the commission of a crime, it shall notify the respective body or official in view of measures to be undertaken to eliminate these reasons and circumstances.

(2) Should the criminal investigative body identify in the course of a criminal investigation cases of violations of the legislation currently in force or of human rights or freedoms, it shall notify the respective bodies of such violations.

(3) Based on the notification, within one month at the most necessary measures shall be undertaken and the prosecutor managing the criminal investigation in the respective case and the body that sent the notification shall be informed about the results.

Article 218. Interlocutory Court Ruling

(1) The court that during a case trial identified acts violating the legislation in force or human rights shall issue along with the judgment an interlocutory ruling by which these acts shall be brought to the notice of the respective bodies, officials and the prosecutor.

(2) The court shall be notified within one month at the most of the results of settling the acts described in the interlocutory ruling.

Title VII
CIVIL ISSUES IN CRIMINAL PROCEEDINGS

Chapter I
CIVIL ACTION IN A CRIMINAL PROCEEDING

Article 219. Civil Action in a Criminal Proceeding

(1) A civil action may be filed in a criminal proceeding upon the request of individuals or legal entities that suffered material or moral damage or, as the case may be, had their professional reputations injured by an act (action or inaction) prohibited under criminal law or in connection with the commission thereof.

(2) The individuals and legal entities suffering damage caused directly by the actions prohibited in criminal law may file a civil action claiming:

1) recovery in kind of objects or of the value of the goods lost or damaged as a result of the commission of the act prohibited by criminal law;

2) a refund of expenses for the purchase of lost or destroyed goods or the restoration of the quality, salable condition or the repair of damaged goods;

3) a refund of any profits lost as a result of the action prohibited by criminal law;

4) redress for moral damage or, as the case may be, for damage caused to a professional reputation.

(3) Moral damage shall be construed related to an action prohibited by criminal law if it is expressed in expenses for:

1) the treatment of the injured party and his/her care;

2) the funeral of the injured party;

3) insurance, allowances and pensions;

4) the execution of a contract for protecting goods.

(4) When assessing the amount of material compensation for moral damage, the court shall consider the physical suffering of the victim; damage that makes it impossible to pursue a sporting, artistic or other activity; esthetic damage; the loss of faith in life; the loss of trust in married life; the loss of honor by defamation; the mental suffering caused by the death of close relatives etc.

(5) A civil action may be filed anytime from the moment a criminal proceeding is initiated until the completion of the judicial inquiry.

(6) A civil action may be filed on behalf of an individual or of a legal entity by their representatives.

(7) In the case of the death of an individual entitled to file a civil action in a criminal proceeding, this right shall be transferred to his/her successor and in the case of the reorganization of the legal entity to its legal successor.

(8) The claims of individuals and legal entities damaged directly by an act prohibited by criminal law shall prevail over the claims of the state on the perpetrator.

(9) The criminal investigative body and the court shall be obliged to bring to the notice of the person his/her right to file a civil action.

Article 220. Applying Legislation to Examine a Civil Action

(1) A civil action in a criminal proceeding shall be settled in line with the provisions of this Code.

(2) The norms for civil procedures shall apply provided that they are not in conflict with the principles of a criminal proceeding and that the norms of a criminal proceeding do not provide for such regulations.

(3) A judgment in a civil action shall be issued in line with the norms of civil law and other branches of law.

(4) The statute of limitations provided in civil legislation shall not apply to civil actions settled in a criminal proceeding.

Article 221. Filing a Civil Action in a Criminal Proceeding

(1) A civil action shall be filed in a criminal proceeding based on the written request of the civil party or his/her representative any time from the moment the criminal proceeding is initiated until the completion of the judicial inquiry.

(2) A civil action shall be filed against a suspect/accused/defendant, against an unknown person subject to liability, or against a person who may be responsible for the actions of the accused/ defendant.

(3) A civil action request shall refer to the criminal case within which the civil action shall be filed, to whom the civil action is addressed, the value of the action and the claim for damage. If necessary, a civil party may submit a request specifying a civil action.

(4) The prosecutor shall file or support a civil action if the individual or the legal entity entitled to file such an action is unable to protect its interests. The prosecutor may file a civil action for moral damage only upon the request of an injured party unable to protect his/her interests.

(5) A person who does not file a civil action as part of a criminal proceeding and a person whose civil action remains pending shall have the right to file a civil action under a civil procedure. Should the civil action filed under the civil procedure be rejected, the plaintiff shall not be entitled to file the same action within the same criminal proceeding. Should the civil action be rejected within the criminal proceeding, the plaintiff shall not be entitled to file the same action under a civil procedure.

Article 222. Acknowledging and Refusing to Acknowledge a Civil Party

(1) The individual or the legal entity that filed the civil action shall be acknowledged as a civil party on the order of a criminal investigative body or by a court ruling and shall be provided with written information about their rights and obligations provided in Art. 62.

(2) Should there be no grounds set forth in arts. 219 and 221 to file a civil action, the criminal investigative body or the court, in a reasoned judgment, shall refuse to acknowledge as a civil party the individual or the legal entity that filed the civil action and shall explain to the respective person his/her right to file a request for cassation against this judgment.

(3) The refusal of a criminal investigative body or the court to acknowledge the person as a civil party shall not prevent him/her from filing a civil action under a civil procedure.

Article 223. Acknowledging a Civilly Liable Party

Upon identifying the person liable for the damage caused by the actions or inactions prohibited by criminal law, the criminal investigative body or the court in a judgment shall acknowledge him/her as a civilly liable party and shall provide him/her with written information on his/her rights and obligations provided in art. 74.

Article 224. Withdrawing a Civil Action

(1) A civil party may withdraw a civil action any time during a criminal proceeding but not after the panel of judges retires to the deliberation room to settle the case on its merits. A person may also withdraw a civil action if it was filed by the prosecutor on his/her behalf.

(2) The withdrawal of a civil action accepted by the criminal investigative body or by the court implies the termination of the proceeding on the civil action and prevents the subsequent filing of the same action in the criminal proceeding.

(3) The criminal investigative body or the court may reject the withdrawal of a civil action if such a withdrawal could injure the rights of other interested persons or other interests protected by law.

Article 225. Trying a Civil Action

(1) A civil action in a criminal proceeding, irrespective of the value of the action, shall be tried by the court competent to try the criminal case.

(2) By adopting the sentence on conviction or on coercive medical measures, the court shall also settle a civil action by accepting or rejecting it in whole or in part.

(3) If by settling a civil action and in order to establish the amount of compensation due to a civil party it is necessary to postpone the case hearing so that additional evidence is managed, the court may admit, in principle, the civil action, and the court shall set the amount of the compensation under civil procedures.

(4) The court shall leave a civil action unsettled in a criminal proceeding if a sentence on termination of the criminal investigation or on acquittal is issued due to the lack of the elements of a crime. This fact shall not prevent the person who filed the civil action from filing it under civil procedures.

Article 226. Effects of a Judgment on a Civil Action Becoming Effective

The final court judgment on a civil action in a criminal proceeding including the judgment of the criminal investigative body or the court on the acceptance of a withdrawal of a civil action, and a court judgment confirming a reconciliation of the parties in the same dispute shall prevent the subsequent filing of a new action on the same grounds.

Chapter II
JUDICIAL EXPENSES

Article 227. Judicial Expenses

(1) Judicial expenses are the expenses incurred in line with the law to ensure the normal course of a criminal proceeding.

(2) Judicial expenses cover:

1) the amounts paid or to be paid to witnesses, injured parties, their representatives; experts; specialists; interpreters; translators and procedural assistants;

2) the expenses for the storage, transportation and examination of material evidence;

3) the expenses to be paid for the legal assistance guaranteed by the state;

4) the expenses for refunding the value of objects damaged or destroyed in the course of offering expertise or reconstructing an event;

5) the expenses related to procedural actions undertaken in a criminal case.

(3) Judicial expenses shall be paid from the amounts allotted by the state unless the law provides otherwise.

[Art.227 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 228. Refunding Expenses Incurred by the Criminal Participants in the Proceeding

(1) The following judicial expenses incurred by witnesses, injured parties, civil parties, procedural assistants, interpreters, translators, experts, specialists, legal representatives of injured parties and of civil parties shall be refunded from the amounts allotted by the state in the manner provided in criminal procedural law:

1) the expenses incurred for appearing when summoned by a criminal investigative body or by the court;

2) accommodation expenses;

3) the average salary for the entire duration of the criminal proceeding;

4) expenses incurred to repair or to restore objects damaged as a result of their use during procedural actions requested by the criminal investigative body or the court.

(2) State bodies, enterprises, institutions and organizations shall be obliged to maintain the average salary for the entire period of a criminal proceeding of injured parties their legal representatives, procedural assistants, interpreters, translators, specialists, experts, witnesses who participate in a criminal proceeding due to a summons by a criminal investigative body or by the court.

(3) Experts and specialists shall be also refunded the cost of materials belonging to them and used to execute their respective tasks.

(4) Experts, specialists, interpreters and translators shall be entitled to be paid for the execution of their obligations except for cases when such obligations were executed as an official duty.

(5) The expenses incurred by the persons specified in para. (1) shall be refunded upon their request based on a judgment of a criminal investigative body or the court in the amount set by the legislation currently in force.

[Art.228 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 229. Payment of Judicial Expenses

(1) Judicial expenses shall be incurred by a convicted person or by the state.

(2) The court may oblige a convicted person to refund judicial expenses, except for the amounts paid to interpreters, translators and defense counsels if the defendant is granted an attorney providing the legal assistance guaranteed by the state when this is required in the interests of justice and the convicted person does not have the necessary financial means. Judicial expenses may also be paid by the convicted person exempted from punishment or applied a punishment, and by the person in whose regard the criminal investigation was terminated on non-rehabilitation grounds.

(3) The court may exempt a convicted person or a person who must pay judicial expenses from paying such expenses in whole or in part if they are insolvent or if the payment of judicial expenses would substantially influence the financial condition of persons supported by them.

(4) If several persons are convicted in the same case, the judicial expenses shall be divided depending on their guilt, degree of liability and the financial condition of each of them.

(5) Should a criminal investigation be discontinued as a result of a reconciliation of the injured party and the accused/defendant, the court may impose judicial expenses on the injured party on the accused/defendant or on one of the parties.

(6) Should the convicted person decease prior to the sentence becoming effective, judicial expenses may not be imposed on his/her successors.

(7) If the convicted person is a juvenile, the parents or the tutors of the convicted juvenile may be obliged to pay judicial expenses provided serious drawbacks in performing their obligations to the juvenile are established.
[Art.229 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Title VIII
PROCEDURAL TIMEFRAMES AND JOINT PROCEDURAL ACTS

Chapter I
PROCEDURAL TIMEFRAMES

Article 230. Definition of Procedural Timeframes and Consequences of the Failure to Meet those Timeframes

(1) Timeframes in a criminal proceeding are the periods of time within which or upon the expiry of which procedural actions may be conducted in line with the provisions of this Code.

(2) Should a specific timeframe be set for exercising a procedural right, the failure to meet this timeframe shall imply the loss of the procedural right and the invalidity of the act performed after the expiry of the timeframe.

(3) Should a procedural measure be applied for a timeframe provided by law, its expiry shall imply the termination of this measure.

Article 231. Calculation of Procedural Timeframes

(1) The timeframes set under this Code shall be calculated in hours, days, months and years.

(2) The calculation of procedural timeframes shall start with the hour, day, month, and year specified in the act setting the timeframe unless the law provides otherwise.

(3) By calculating the timeframe in hours or days, the hour or day when the timeframe started shall not be considered nor shall the hour or day when the timeframe expires.

(4) Timeframes calculated in months or years shall expire at the end of the respective day of the last month or at the end of the respective day and month of the last year. If this month does not have the respective day, the timeframe shall expire on the last day of this month.

(5) Should the last day of a timeframe be a nonworking day, the timeframe shall expire at the end of the following first working day.

Article 232. Documents Construed as Filed within the Timeframe

(1) A document filed within the timeframe provided by law with the administration of a place of detention, a military unit, the administration of the medical institution or a post office by registered mail shall be construed as filed within the timeframe. Registration or confirmation of the receipt of an act filed by the administration of a place of detention, a military unit or a medical institution and the receipt of the post office shall serve as proof of the date of the document's submission.

(2) Except for the timeframe provided for the means of appeal, documents prepared by the prosecutor shall be construed as submitted within the timeframe provided that the date specified in the register of outgoing documents is covered by the timeframe required by law for document preparation.

Article 233. Calculation of Timeframes of Preventive Measures

When calculating the timeframes for preventive measures, the hour or date when the timeframe starts and ends shall be considered.

Article 234. Resumption of a Missed Timeframe

(1) Should the respective person miss the procedural timeframe due to justifiable reasons, such a timeframe may be resumed, upon his/her request, by a judgment of the criminal investigative body or the court in line with the law. The missed term may be resumed only in respect to the persons mentioned in this paragraph and not to other persons.

(2) The refusal to resume a missed timeframe may be appealed in line with the law.

Chapter II
SUMMONING AND NOTIFICATION OF OTHER PROCEDURAL ACTS

Article 235. Purpose for Summoning and Consequences of a Failure to Summon

(1) Summoning in a criminal proceeding is the procedural action by which the criminal investigative body, the investigative judge, or the court ensures the presence of a person before it in order to secure the normal unfolding of a criminal proceeding.

(2) A person summoned shall be obliged to appear based on the summons. Should it be impossible to appear on the date and at the time and in the place indicated in the summons, the person shall be obliged to notify the respective body and specify the reason for his/her inability to appear.

(3) If a person fails to notify the respective body about his/her inability to appear on the date and at the hour and in the place indicated in the summons or if he/she fails to appear without giving a reason, a court fine may be imposed on him/her or he/she may be brought by force.

Article 236. Summoning

(1) A person shall be summoned to a criminal investigative body or to the court by a written summons. Summoning may also be performed by a telephone or telegraph note or other electronic means.

(2) Summoning shall be performed so that the person summoned is served the summons at least five days prior to the date when he/she is supposed to appear before the respective body. This rule shall not apply to the summoning of the suspect/accused/defendant or other participants in the proceeding when urgent procedural actions need to be undertaken as part of the criminal investigation or the case trial.

(3) The summons shall be served by the agent authorized to serve a summons (hereinafter referred to as the agent) or by the postal service.

Article 237. Contents of the Summons

(1) The summons shall be individual and shall refer to:

1) the name of the criminal investigative body or the court issuing the summons, its address, the date issued and the case number;

2) the last name and first name of the person summoned, his/her procedural status and the case object;

3) the address of the person summoned including the locality, street, building number, apartment, and any other data necessary to identify the address of the person summoned;

4) the hour, month, year and place the person summoned is supposed to appear and the legal consequences of the failure to appear.

(2) The summons shall be signed by the person issuing it.

Article 238. Place of Summoning

(1) The summons shall be sent to the address of the person's domicile or if unknown, to the address of his/her place of employment via the human resources service of the institution he/she is employed by.

(2) If in a previous declaration made in the course of a criminal proceeding the person specified a different address for summoning, the summons shall be delivered to the address specified.

(3) Should the address specified in the person's declaration change, the summons shall be delivered to the new address provided that the person notified the criminal investigative body or the court of the address change or the criminal investigative body or the court identified the address change based on data provided by a respective agent.

(4) Patients in hospital or in any other medical institution shall be summoned via the administration of these institutions.

(5) Detainees shall be summoned at the place of their detention via the administration of the detention institution.

(6) Servicepersons living in barracks shall be summoned at their military units via their commanders.

(7) Persons living abroad shall be summoned in line with the provisions of the treaties on legal assistance in criminal matters.

Article 239. Serving a Summons to the Addressee

(1) The summons shall be served to the person summoned who shall sign the confirmation of receipt.

(2) If the person summoned refuses to receive the summons or upon receiving it does not wish or cannot sign the confirmation of receipt, the agent shall leave the summons with the person summoned, or, if the person refuses to receive the summons, shall post it on the door of the person's domicile and a transcript shall be prepared.

(3) Should the summoning take place in line with art. 238 para. (1), (4)-(6), the administrations of the respective institutions shall be obliged to immediately hand the summons against signature, to the person summoned certifying his/her signature on the confirmation of receipt or by specifying the reason why the person could not sign it. The confirmation of receipt shall be provided to the procedural agent who shall transmit it to the criminal investigative body or to the court that issued the summons.

Article 240. Serving a Summons to Other Persons

(1) Should the person summoned be not at home, the agent shall hand the summons to his/her spouse, to a relative or to any other person living with him/her or usually receiving his/her correspondence. The summons may not be handed to a juvenile aged under 14 or to a mentally ill person.

(2) Should the person summoned live in a house with several apartments, in a dormitory or in a hotel, in the absence of the persons specified in para. (1) the summons shall be served to the administrator, to the person on duty or to the persons usually replacing them.

(3) The person receiving the summons shall sign the confirmation of receipt and the agent, certifying the identity and the signature, shall prepare the transcript. Should the person not wish or be not able to sign the confirmation of receipt, the agent shall post the summons on the door of the dwelling and this shall be documented in the transcript.

(4) In the absence of the persons specified in paras. (1) and (2), the agent shall be obliged to inquire when he/she may find the person summoned to hand him/her the summons. If the agent cannot serve the summons, he/she shall post it on the door of the dwelling of the summoned person and this shall be documented in the transcript.

(5) If the person summoned lives in a house with several apartments, in a dormitory or in a hotel, and if the summons did not refer to the apartment or room he/she lives in, the agent shall be obliged to find it out. If the agent's research is unsuccessful, the agent shall post the summons on the main door of the building or on the notice board and the transcript shall be prepared referring to the circumstances that made it impossible to serve the summons.

Article 241. Research to Serve a Summons

Should the person summoned change his/her address, the agent shall post the summons on the door of the dwelling indicated in the summons and shall undertake research to find out the new address. Any data collected shall be mentioned in the transcript.

Article 242. Confirmation of the Receipt and Transcript of Serving a Summons

(1) The confirmation of receipt of a summons shall include the number of the criminal case, the name of the criminal investigative body or the court issuing the summons, the last name, first name and procedural capacity of the person summoned, and the date the person summoned is supposed to appear before the respective body. The confirmation of receipt shall also refer to the date the summons was served and shall include the last name, first name, capacity and signature of the person serving the summons, certification by him/her of the identity and the signature of the person served the summons and the specification of this person's capacity.

(2) Whenever transcript of serving or posting a summons is prepared, it shall correspondingly cover the data indicated in para. (1)

Article 243. Notification about Other Procedural Acts

Notification about other procedural acts shall be performed in line with the provisions of this Chapter.

Chapter III
REQUESTS AND MOTIONS IN A CRIMINAL PROCEEDING

Article 244. Requests and Motions

(1) Requests in a criminal proceeding are written or oral applications addressed by the parties in the proceeding or other interested persons to the criminal investigative body or to the court in connection with the unfolding of the proceeding and the establishment of circumstances important for the case and those ensuring the legal rights and interests of the person.

(2) Motions are the acts of criminal investigative bodies, public organizations or a team of employees aimed at specific procedural actions performed in line with this Code. The motions of a criminal investigative body shall be addressed to the investigative judge or, as the case

may be, to the court. The motions of public organizations and teams of employees shall be addressed to the criminal investigative body or to the court.

Article 245. Filing Requests and Motions

(1) Requests and motions may be filed at any stage of a criminal proceeding. The person filing the request or motion shall refer to the circumstance in which he/she is requesting the procedural action to be performed or a judgment to be issued. Written requests and motions shall be attached to the criminal case file while oral ones shall be included in the transcript of the procedural action or the transcript of the court hearing.

(2) Rejecting a request or motion shall not deprive the person, public organization or team of employees of the right to repeatedly file one at a different stage in the criminal proceeding.

Article 246. Timeframes for the Examination of Requests and Motions

(1) Requests and motions filed by public organizations and teams of employees shall be examined and settled immediately after they have been filed. Should the body to which the request or motion is addressed be unable to settle it immediately, it shall settle it not later than within three days from the date of its receipt.

(2) The motions of a criminal investigative body shall be examined within the timeframes set by this Code.

Article 247. Settling Requests and Motions

(1) The request or, as the case may be, the motion of a public organization or of a team of employees shall be accepted if it contributes to a comprehensive, complete and objective investigation of case circumstances and to ensuring the observance of the legal rights and interests of the parties in the proceeding and other persons participating in the proceeding.

(2) If the request or, as the case may be, the motion of a public organization or a team of employees is integrally or partially rejected, the criminal investigative body shall adopt an order and the court a ruling that shall be brought to the notice of the applicant. The judgment of the criminal investigative body or the court on rejecting a request or motion may be appealed in the cases and in the manner set out in this Code.

(3) The motions of a criminal investigative body shall be examined in the manner duly set out in this Code.

Chapter IV
AMENDING PROCEDURAL ACTS, CORRECTING MATERIAL ERRORS AND ELIMINATING AN OBVIOUS OMISSION

Article 248. Amending Procedural Acts

(1) Any amendment (completion, correction, deletion) of the contents of a procedural act shall be valid if it is confirmed in writing in the text or at the bottom of the act by the signatories.

(2) Unconfirmed amendments shall be valid provided they do not change the meaning of the phrase.

(3) Empty spaces in a declaration shall be struck through so that it is impossible to add any text in the space.

Article 249. Correcting Material Errors

(1) Obvious material errors in the contents of a procedural act shall be corrected by a criminal investigative body, the investigative judge or the court that issued the act at the request of an interested person or ex officio.

(2) Upon the correction of substantive errors, the parties may be summoned to provide explanations.

(3) The criminal investigative body shall prepare transcript of the correction and the investigative judge or the court shall prepare a ruling. A note to that effect shall be made at the bottom of the corrected act.

Article 250. Eliminating an Obvious Omission

The provisions art. 249 shall also apply when, as a result of an obvious omission, the criminal investigative body, the investigative judge or the court does not express an opinion on the amounts claimed by the witnesses, experts, interpreters, translators or defense counsels on the return of objects or material evidence or the revocation of security measures or of other measures.

Chapter V
NULLITY OF PROCEDURAL ACTS

Article 251. Violations Implying the Nullity of Procedural Acts

(1) Violations of legal provisions regulating the unfolding of a criminal proceeding shall imply the nullity of the procedural act only if the violation of criminal procedural norms cannot be eliminated other than by cancelling that act.

(2) Violations of legal provisions on material competence or the competence of a person's capacity, of notifications to the court and its composition and the public nature of court hearings, of the mandatory participation of the parties and of the presence of an interpreter/translator if required by law shall imply the nullity of the procedural act.

(3) The nullity provided in para. (2) shall not be eliminated in any manner, may be invoked at any stage of the proceeding by the parties involved and shall be considered by the court inclusively ex officio if the cancellation of the procedural act is necessary to find out the truth or to solve the case in a just manner.

(4) Violations of any legal provisions other than the one provided in para. (2) shall imply the nullity of the act provided that it was invoked in the course of the action in the presence of the party, or upon completion of the criminal investigation when the party reviews the case

materials or in court when the party was absent from the procedural action and when the evidence is presented directly to the court.

SPECIAL PART

Title I
CRIMINAL INVESTIGATIONS

Chapter I
GENERAL PROVISIONS

Article 252. Object and Purpose of Criminal Investigations

The object of a criminal investigation is to collect evidence necessary to confirm the existence of a crime, to identify the perpetrator, to determine the need to send or not to send a criminal case to court in line with the law and to establish the liability of the perpetrators.

Article 253. Criminal Investigative Bodies

(1) A criminal investigation shall be conducted by a prosecutor or by the bodies created by law in:

1) the Ministry of Home Affairs;
2) the Customs Service;
3) the Center for Combating Economic Crimes and Corruption.

(2) Criminal investigative bodies shall be represented by criminal investigative officers appointed by the institutions specified in para. (1) who are administratively subordinated to the chief of the respective institution.

(3) Criminal investigative officers shall be independent and shall follow the law and the written orders of the chief of the criminal investigative body and of the prosecutor.

(4) The status of a criminal investigative officer shall be established by law.
[Art.253 amended by Law No. 178-XVI dated 22.07.05, in force as of 12.08.05]

Article 254. Active Role of a Criminal Investigative Body

(1) A criminal investigative body shall be obliged to undertake all the measures provided by law to comprehensively, completely and objectively investigate case circumstances in order to find the truth.

(2) The activities of a criminal investigative body listed in para. (1) shall be also conducted when the suspect or accused admits guilt.

Article 255. Orders of a Criminal Investigative Body

(1) In the course of a criminal investigation, a criminal investigative body shall issue orders for procedural actions or measures under this Code.

(2) An order shall be reasoned and shall cover the date and place of issue; the last name, first name and the capacity of the person issuing it; the case it refers to; the object of the procedural action or measure and its legal grounds and the signature of the person who issued it. An order not signed by the issuer shall have no legal force and shall be considered null and void. Should a criminal investigative body consider that it is necessary to undertake specific measures, he/she shall include them in the order and shall justify such proposals.

(3) In cases provided hereunder, a criminal investigative body shall order procedural actions in a reasoned order.

(4) If the law stipulates that a procedural action or measure requires the consent, authorization or confirmation of a prosecutor or, as the case may be, the investigative judge, a copy of the order or of the procedural act shall be kept by the prosecutor or the investigative judge.
[Art.255 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 256. Criminal Investigations by Several Criminal Investigative Officers

(1) In complex or large-scale cases, the chief of a criminal investigative body with the consent of the prosecutor shall decide to conduct the criminal investigation with several criminal investigative officers.

(2) The prosecutor may order that in certain cases mentioned in para. (1) a criminal investigation shall be conducted by several officers from different criminal investigative bodies.

(3) A criminal investigation conducted by several criminal investigative officers shall be directed by an order specifying which officers will manage the actions of the other officers. The order shall be brought to the notice of the suspect/accused, the injured party, a civil party, a civilly liable party and their representatives. Their right to request the recusal of any officer shall be explained to them.

Article 257. Place of a Criminal Investigation

(1) A criminal investigation shall be conducted on the site where the crime was committed or, upon a decision of the prosecutor, on the site where the crime was discovered or where the suspect/ accused or most of the witnesses are located.

(2) Upon establishing that a certain case is not within his/her competence or that the criminal investigation may be conducted more efficiently and completely by a different criminal investigative body, a criminal investigative officer shall be obliged to perform all urgent investigative actions and then send the case to the prosecutor who shall decide on its transfer to a competent criminal investigative body.

(3) Should the scene of crime be unknown, the criminal investigation shall be conducted by the criminal investigative body in the territorial jurisdiction in which the crime was discovered or in which the suspect/accused lives.

(4) A higher-level prosecutor participating in the criminal investigation of the respective case may justifiably order that the case be transferred to a different sector within his/her jurisdiction.

(5) The Prosecutor General and his/her deputies may justifiably order a case transferred from one criminal investigative body to another criminal investigative body so that a more efficient, complete and objective criminal investigation is conducted.

Article 258. Scope of Territorial Competence and Delegation by a Criminal Investigative Body

(1) If certain criminal investigative actions must be performed outside the territory of the criminal investigation, the criminal investigative body may perform them by itself or may delegate these actions to another body that shall be obliged to execute this delegation within 10 days at the most.

(2) If the criminal investigative body proceeds to perform procedural actions under the conditions in para. (1), it shall notify the respective body in the territorial jurisdiction in which these actions will be performed.

Article 259. Timeframes of Criminal Investigations

(1) A criminal investigation shall be conducted within a reasonable timeframe.

(2) A reasonable timeframe for a criminal investigation of a specific case shall be set by the prosecutor in an order depending on the complexity of the case and on the behavior of the participants in the proceeding.

(3) The timeframe for the criminal investigation set by the prosecutor shall be mandatory for a criminal investigative officer and may be extended at his/her request.

(4) Should it be necessary to extend the timeframe for a criminal investigation, the criminal investigative officer shall prepare a motion and file it with the prosecutor prior to the expiry of the timeframe set by him/her.
[Art.259 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 260. Transcript of Criminal Investigative Actions

(1) Transcript of criminal investigative actions shall be prepared during the respective action or immediately upon its completion by the person conducting the criminal investigation.

(2) The transcript shall cover:

1) the place and date of the criminal investigative action;

2) the position, last name and first name of the person preparing the transcript;

3) the last name, first name and capacity of the persons who participated in the criminal investigative action and, if necessary, their addresses, objections and explanations;

4) the date and hour of beginning and completing the criminal investigative action;

5) a detailed description of the facts established and of the measures undertaken during the criminal investigative action;

6) notes on the use of photography, filming, audio recording, wiretapping and monitoring of conversations; or on preparing moulds and casts of shoes; on any technical means used and the conditions and the manner of their application; on the objects to which these means were applied and on the results obtained, and an assurance that prior to using

technical means the persons participating in the criminal investigative action were informed thereof.

(3) If during a criminal investigative action objects are identified and seized that may serve as material evidence, they shall be described in detail in the transcript with a note on whether they were photographed and the attachment to the case file of such photographs.

(4) The transcript shall be read out to all the persons who participated in the criminal investigative action and who, at the same time, shall be advised of their right to file objections which shall be noted therein.

(5) Every page of the transcript shall be signed by the person who prepares it and by the persons mentioned in para. (2) point 3) with the exception of those persons provided hereunder. If any of these persons cannot or refuses to sign the transcript, it shall be noted therein.

(6) Diagrams, pictures, films, audio and video recordings, moulds and casts of shoes produced in the course of criminal investigation actions shall be attached to the transcript.

Article 261. Confirmation of a Refusal or Inability to Sign the Transcript of a Criminal Investigative Action

(1) Should the person who participated in the criminal investigative action refuse to sign the transcript, this fact shall be noted therein and shall be signed for validation by the person who performed the action.

(2) A person who refuses to sign the transcript shall be provided with the possibility to explain the reasons of his/her refusal and those explanations shall be entered therein.

(3) Should a person who participated in a criminal investigative action be physically unable to sign the transcript, the person preparing the transcript shall invite an impartial bystander who, with the consent of the person unable to sign, shall validate with his/her signature the accuracy of the contents of the transcript.

Chapter II
NOTIFYING A CRIMINAL INVESTIGATIVE BODY

Article 262. Notifying a Criminal Investigative Body

(1) A criminal investigation body may be notified about the commission or preparation of a crime provided for in the Criminal Code by:

1) a complaint;
2) a denunciation;
3) a self-denunciation;
4) the direct detection of the crime by the employees of a criminal investigative body.

(2) If under the law a criminal investigation may be initiated only upon a preliminary complaint or upon the consent of the body specified by law, a criminal investigation may not start in the absence thereof.

(3) If a crime is detected directly by an employee of a criminal investigative body, he/she shall prepare a report describing the circumstances detected and shall order the registration of the crime.

(4) In the event of the death of a person in the custody of the state in connection with a criminal investigation or the execution of a punishment, the prosecutor shall initiate the proceedings under the conditions in para. (3).
[Art.262 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 263. Complaints and Denunciations

(1) A complaint is a notification by an individual or a by legal entity about damage caused by a crime.

(2) A denunciation is a notification by an individual or by a legal entity about the commission of a crime.

(3) A complaint or, as the case may be, a denunciation shall cover the last name, first name, capacity and domicile of the petitioner; a description of the act that is the object of the complaint or denunciation; specifications about the perpetrator, if known, and sources of evidence.

(4) A complaint may be filed personally or by a representative authorized in line with the law.

(5) An oral complaint or denunciation shall be entered in the transcript signed by the person making the complaint or denunciation and by an official of a criminal investigative body.

(6) A complaint may be filed by one spouse for the other or by an adult child on behalf of his/her parents. The victim may declare that he/she does not acknowledge such a complaint.

(7) The person making a denunciation or a complaint containing a denunciation shall be advised of his/her liability for an intentionally false denunciation which shall be noted in the transcript or, as the case may be, in the text of the denunciation or of the complaint and validated by the signature of the person who filed the denunciation or the complaint.

(8) Anonymous complaints and denunciations may not serve as grounds for initiating a criminal investigation; however, following an investigation based on these complaints or denunciations, a criminal investigative body may initiate criminal investigative proceedings.

Article 264. Self-Denunciation

(1) A self-denunciation is the voluntary notification by an individual or by a legal entity about the commission by him/her/it of a crime before criminal investigative bodies are aware of this act.

(2) A self-denunciation shall be made in writing or orally. If the self-denunciation is oral, the transcript shall be prepared in line with art. 263 para. (5) and the self-denunciation shall be audio or video recorded.

(3) Prior to making a self-denunciation, the person making it shall be advised of his/her right to keep silent and not to incriminate him/herself, and that if he/she slanders him/herself to prevent finding the truth, he/she shall be deprived of the right to claim damages in line with the law which shall all be noted in the transcript of the self-denunciation or in the text of the self-denunciation.

(4) Should a criminal investigative body be aware of the crime committed, the self-denunciation shall be important to determine and identify the perpetrator of the crime and shall be considered, in line with the law, as the surrender of the perpetrator.

Article 265. Obligation to Accept and to Examine Complaints or Denunciations

(1) A criminal investigative body shall be obliged to accept complaints or denunciations about crimes committed, prepared or in the course of preparation even if the case is not within its competence. The person filing the complaint or denunciation shall be immediately issued an affidavit specifying the person who received the complaint or denunciation and the time of its registration.

(2) The refusal of a criminal investigative body to accept a complaint or a denunciation may be appealed to the investigative judge immediately or not later than within five days from the moment of refusal.

Chapter III
COMPETENCE OF CRIMINAL INVESTIGATIVE BODIES

Article 266. Competence of the Criminal Investigative Body of the Ministry of Home Affairs

The criminal investigative body of the Ministry of Home Affairs shall conduct criminal investigations of any crime not referred by law to the competence of other criminal investigative bodies or referred to its competence by an order of a prosecutor.

[Art.267 excluded by Law No. 178-XVI dated 22.07.05, in force as of 12.08.05]

Article 268. Competence of the Criminal Investigative Body of the Customs Service

The criminal investigative body of the Customs Service shall conduct criminal investigations of the crimes provided in arts. 248 and 249 of the Criminal Code.

Article 269. Competence of the Criminal Investigative Body of the Center for Combating Economic Crimes and Corruption

(1) The criminal investigative body of the Center for Combating Economic Crimes and Corruption shall conduct criminal investigations of the crimes provided in arts. 236–261[1], 279, 324–326 and 330–336 of the Criminal Code and of the crimes provided in arts. 191, 195 and 327–329 of the Criminal Code only in cases when damage was caused exclusively to public authorities and institutions, to state enterprises or to the national public budget.

(2) The criminal investigative body of the Center for Combating Economic Crimes and Corruption shall conduct, under the control of a prosecutor, criminal investigations of crimes

referred to its competence irrespective of the capacity of their subject except for the crimes and persons specified in art. 270 para. (1) point 1) letters a), f) and h) and points 2) and 3).
[Art.269 completed by Law No. 136-XVI dated 19.06.2008, in force as of 08.08.2008]
[Art.269 in version of Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 269[1]. Competence of Criminal Investigation Bodies for Crimes against Justice

For crimes provided in arts. 311–316 and 323 of the Criminal Code, criminal investigations shall be conducted by the body competent to investigate the crimes in relation to which the criminal investigation was initiated.
[Art.269[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 270. Competence of the Prosecutor Conducting a Criminal Investigation

(1) A prosecutor shall conduct a criminal investigation for:
1) crimes committed by:
a) the President of the country;
b) deputies;
c) members of the government;
d) judges;
e) prosecutors;
f) persons with military status mentioned in art.37 points 1)–3);
g) criminal investigative officers;
h) juveniles;
2) attempts on the life of police officers, criminal investigative officers, prosecutors, judges or members of their families if the attempt is related to their functions;
3) crimes committed by the Prosecutor General;
4) crimes committed by the employees of the Center for Combating Economic Crimes and Corruption.

(2) A prosecutor shall conduct a criminal investigation of crimes against the peace and security of humanity provided in arts. 135–144 of the Criminal Code and of crimes against state security provided by arts. 337–347 of the Criminal Code.

(3) A prosecutor shall manage criminal investigative actions performed by criminal investigative bodies.

(4) A prosecutor at a level equal to that of the court that, in line with the law, is competent to hear the case in the first instance shall be competent to conduct the criminal investigation in cases provided in para. (1) and to manage criminal investigative activities. A prosecutor from a higher prosecutor's office may conduct the criminal investigation and manage the criminal investigative actions in these cases only if it is necessary for the benefit of the criminal investigation.

(5) A higher-level prosecutor may in a reasoned order require that the criminal investigation in the case provided in para. (1) be conducted by a prosecutor from another prosecutor's office at the same level.

(6) The Prosecutor General may in a reasoned order require that the criminal investigation in cases mentioned in para. (1) be conducted by a prosecutor from the General Prosecutor's Office.

(7) A prosecutor or a group of prosecutors appointed by parliament at the suggestion of the Chairperson of Parliament shall be competent to conduct criminal investigations in the case provided in para. (1) point 3).

(8) In complicated or large-scale cases, a prosecutor at a higher level than the prosecutor competent to conduct the criminal investigation may in a reasoned order require that the criminal investigation be conducted by a group of prosecutors and criminal investigative officers specifying the prosecutor who will manage the criminal investigative actions.

(9) If necessary and in order to ensure a complete and objective criminal investigation, the prosecutor may personally conduct a comprehensive criminal investigation of any criminal case.

[Art.270 completed by Law No. 281-XVI dated 14.12.2007, in force as of 10.06.2008]
[Art.270 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.270 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]
[Art.270 amended by Law No. 178-XVI dated 22.07.05, in force as of 12.08.05]

Article 271. Verification of Competence

(1) The criminal investigative body notified in the manner provided in art. 262 shall be obliged to verify its competence.

(2) Should a criminal investigative body state that it is not competent to conduct a criminal investigation, it shall immediately, however, no later than within three days, send the case to the prosecutor managing the criminal investigation who shall send it to a competent body.

(3) A conflict of competence between criminal investigative bodies is inadmissible. Issues related to a conflict of competence shall be settled by the prosecutor exerting control over the criminal investigation or, as the case may be, by a higher-level prosecutor.

(4) A prosecutor may justifiably order that a criminal investigation that should be conducted by a specific criminal investigative body must be conducted by any other similar body.

(5) Should a criminal investigation be within the competence of several criminal investigative bodies, any issues related to competence shall be settled by a higher-level prosecutor.

(6) If a criminal investigation is conducted by a prosecutor, he/she may order that specific criminal investigative actions be performed by a criminal investigative body.

(7) If necessary and in order to ensure a complete, objective and comprehensive criminal investigation, the Prosecutor General and his/her deputies may in a reasoned order require that the criminal investigation be conducted by any criminal investigative body irrespective of its competence.

[Art.271 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 272. Urgent Cases

Should a criminal investigative body establish that a criminal investigation is not within its competence, it shall be obliged to perform any urgent criminal investigative actions. The

transcript of the actions performed in these cases shall be attached to the respective case file sent to the prosecutor in line with the provisions in art. 271 para. (2).

Article 273. Official Examiners, Their Competence and Actions

(1) Official examiners are:

a) the police for crimes not referred by law to the competence of other official examiners;

b) the Center for Combating Economic Crimes and Corruption for crimes referred by law to its competence;

c) the Customs Service for crimes referred by law to its competence;

d) the Information and Security Service for crimes the prevention and suppression of which are referred to its competence by law;

e) the commanders of military units and formations and chiefs of military institutions for crimes committed by subordinate servicepersons and by persons subject to military service during mobilizations; for the crimes committed by workers and civilians of the Armed Forces of the Republic of Moldova in connection with their official duties or committed at the location of the unit, formation, institution;

f) heads of penitentiaries for crimes committed in places of detention while escorting or enforcing convictions; heads of specialized treatment institutions in cases related to persons undergoing coercive medical measures;

g) commanders of vessels and aircrafts for crimes committed thereon while the vessels and aircrafts under their command are away from domestic ports and airports;

h) the courts or, as the case may be, investigative judges for crimes committed during hearings.

(2) The bodies specified in para. (1) shall be entitled in line with this Code to capture perpetrators, to seize material evidence, to require the information and documents necessary to establish the crime, to summon persons and to obtain declarations from them, to assess damage and to perform any other urgent actions, and the transcript shall be prepared describing the actions performed and the circumstances determined.

(3) Establishing acts issued in line with the provisions in para. (2) along with other material sources of evidence shall be sent within 24 hours by the official examining bodies of the police, the Center for Combating Economic Crimes and Corruption and the Customs Service to the corresponding criminal investigative bodies created by law in the Ministry of Home Affairs, the Center for Combating Economic Crimes and Corruption and the Customs Service and by other official examining bodies – to a prosecutor in order to initiate a criminal investigation.

(4) Should a person be captured by an official examining body specified in para. (1), except for the bodies specified in letter g), the transcript establishing the crime, the material sources of evidence and a captured person shall be sent to the criminal investigative body or to the prosecutor immediately or no later than within three hours from the moment the person was de facto captured.

(5) The commanders of vessels and aircrafts shall send to prosecutor the transcript of actions performed, on material sources of evidence and, as the case may be, on captured persons immediately upon mooring the vessel or landing the aircraft on the territory of the Republic of Moldova. Should escorting a captured person to the Republic of Moldova be dangerous for

the security of the vessel or aircraft or for their crews or passengers, the commanders shall be entitled, in line with the international treaties to which the Republic of Moldova is a party, to hand this person over to the competent authorities of the state where the vessel is moored or the aircraft has landed.

[Art.273 in version of Law No. 256-XVI dated 29.11.2007, in force as of 28.12.2007]
[Art.273 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter IV
INITIATING A CRIMINAL INVESTIGATION

Article 274. Initiating a Criminal Investigation

(1) A criminal investigative body notified in the manner provided in arts. 262 and 273 shall decide in an order to initiate the criminal investigation provided that a reasonable suspicion that a crime has been committed and absence of circumstances excluding the criminal investigation result from the notification or from the establishing acts. The person who made the notification or the respective body shall be informed thereof.

(2) Should a criminal investigative body initiate a criminal investigation on its own initiative, it shall prepare the transcript describing the established facts related to the crime detected and afterwards shall order a criminal investigation.

(3) The order to initiate a criminal investigation issued by a criminal investigative body within 24 hours from the date the criminal investigation was initiated shall be subject to confirmation by the prosecutor managing the criminal investigation. The respective case file shall be also submitted. Along with the confirmation of the initiation of a criminal investigation, the prosecutor shall set a timeframe for the criminal investigation of the corresponding case.

(4) Should a factor preventing the initiation of a criminal investigation result from the contents of the notification, the criminal investigative body shall send to the prosecutor the prepared documents along with the proposal not to initiate the criminal investigation. Should the prosecutor establish that there are no circumstances preventing the initiation of the investigation, he/she shall return the documents with his/her order to the aforementioned body to initiate the criminal investigation.

(5) Should the prosecutor refuse to initiate a criminal investigation, he/she shall confirm the refusal in a reasoned order and shall notify thereof the person who filed the notification. Should the prosecutor consider that there are no grounds for initiating a criminal investigation, he/she shall not confirm the order to initiate the investigation and shall abrogate it in his/her order provided no procedural actions were undertaken, or shall decide to terminate the criminal investigation if such actions were undertaken.

(6) The order to refuse to initiate a criminal investigation may be appealed to the court in line with the provisions in art. 313.

(7) Should it be subsequently established that the circumstance substantiating the proposal to refuse to initiate a criminal investigation did not exist or is no longer present, a higher-level prosecutor shall cancel the order and shall order the initiation of the criminal investigation.

[Art.274 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 275. Circumstances that Eliminate a Criminal Investigation

Criminal investigations may not be initiated and if initiated may not be conducted and shall be terminated if:

1) there is no criminal event;

2) the act is not defined in criminal law as a crime;

3) the act does not contain the elements of a crime except for cases when the crime was committed by a legal entity;

4) the limitation period has expired or amnesty has been granted;

5) the perpetrator has deceased except in cases of rehabilitating a reputation;

6) there is no complaint by a victim in a criminal investigation that starts as per art. 276, only based on such a complaint;

7) with regard to a person, there is a final court judgment on the same charge or stating the impossibility of conducting a criminal investigation on the same grounds;

8) with regard to a person there is an outstanding judgment on the non-initiation of a criminal investigation or on the termination of a criminal investigation on the same charge;

9) there are other circumstances provided by law that call for the elimination or, as the case may be, eliminate a criminal investigation.

Article 276. Initiating a Criminal Investigation Based on a Victim's Complaint

(1) A criminal investigation shall be initiated based only on a victim's complaint in the case of crimes provided in arts. 152 para. (1), 153, 155, 157, 161, 177, 179 paras. (1) and (2), 185^2, 193, 194, 197 para. (1), 198 para. (1), 200, 202, 203, 204 para. (1), 246^1 and 274 of the Criminal Code, and if the theft of the owner's property is committed by a juvenile, spouse, relatives, to the detriment of a tutor or by a person living with or hosted by the victim. Should the injured party reconcile with the suspect/accused/defendant in cases specified in this paragraph, the criminal investigation shall terminate. The procedure in such proceedings is general.

(2) Should several persons be injured as a result of the crime, a criminal investigation shall be initiated even if the preliminary complaint is filed by only one the victims.

(3) If several perpetrators participated in the commission of a crime and the preliminary complaint was filed against only one of them, a criminal investigation shall be initiated against all the perpetrators.

(4) If the victim of a proceeding related to a crime provided in para. (1) due to his/her incapacity or limited legal capacity, helplessness or dependence on the suspect or due to other reasons is unable to defend his/her legal rights and interests, the prosecutor shall initiate a criminal investigation even if the victim does not file a complaint.

(5) If the injured party reconciles with the suspect/accused/defendant in cases specified in para. (1), the criminal investigation shall terminate. Such reconciliation is personal and effective only if done prior to the court judgment becoming final.

(6) Reconciliation on behalf of incapable persons shall be done only by their legal representatives. Persons with limited legal capacity may reconcile with the consent of their legal representatives. Reconciliation may also take place if the criminal investigation was initiated by the prosecutor ex officio.

(7) The parties may also reconcile via mediation.
[Art.276 amended by Law No. 311-XVI dated 27.12.2007, in force as of 05.02.2008]
[Art.276 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 277. Obligation to Explain to the Participants in a Criminal Investigation Their Rights and Obligations

(1) A criminal investigative body shall be obliged to explain to the participants in a criminal investigation their rights and obligations and a note to that effect shall be made in the transcript of the respective procedural action.

(2) A criminal investigative body shall be obliged to hand to the suspect/accused, the victim, the injured party, a civil party, a civilly liable party and their legal representatives in writing and against signature information about their rights and obligations in line with the provisions of this Code and to explain all of these rights and obligations.

Article 278. Obligation to Examine Requests and Motions

A criminal investigative body shall be obliged to examine the requests and motions of the participants in the proceeding and of other interested persons in line with arts. 246 and 247.

Chapter V
UNFOLDING OF A CRIMINAL INVESTIGATION

Article 279. Criminal Investigative Actions

(1) A criminal investigative body shall perform criminal investigative actions in strict compliance with the provisions of this Code and only after a criminal investigation has been initiated, except for the actions provided in art. 118 (on-site investigations) and art. 130 (corporal search or seizure) that may also be performed prior to a criminal investigation.

(2) Any criminal investigative actions performed in a public or private entity shall be allowed only with the consent of the management or owner of this entity or with the authorization of a prosecutor, or in cases provided by this Code with the authorization of an investigative judge.

(3) An investigation, a search for and the seizure of objects and other procedural actions performed at a domicile shall be allowed only with the consent of the person living at the respective address or with the respective authorization.

(4) In flagrant crimes, the consent or authorization mentioned in paras. (2) and (3) shall not be necessary; however, the prosecutor or, as the case may be, the investigative judge who was supposed to issue the respective authorization shall be notified about the corresponding actions immediately or no later than within 24 hours.

(5) Criminal investigative actions at the headquarters of diplomatic representations and institutions assimilated thereto and in the houses where the members of such representations and assimilated institutions and their families live shall be performed only by the prosecutor and only upon the request or consent of the foreign state expressed by the chief of the diplomatic representation or the chief of the institution assimilated to the diplomatic representation and in their presence. Consent for criminal investigative actions performed under the conditions in this paragraph shall be requested via the Ministry of Foreign Affairs

and European Integration of the Republic of Moldova. These actions shall be performed in the presence of a representative of the Ministry of Foreign Affairs and European Integration of the Republic of Moldova.
[Art.279 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 279[1]. Merging and Splitting Criminal Cases

(1) Criminal cases shall be merged in the cases specified in art. 42 para. (3).

(2) Splitting a case related to participants in one or several crimes shall be allowed if the case circumstances require it and if such a split will not have a negative impact on the completeness and objectivity of the criminal investigation and of the judicial inquiry.

(3) When ordering the splitting or merging of criminal cases, the prosecutor at the suggestion of the criminal investigative body or ex office shall issue the respective order.
[Art.279[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 280. Proposal to Bring Formal Charges

(1) If there is sufficient evidence that a crime has been committed by a specific person, the criminal investigation body shall prepare a report with the proposal to bring formal charges against the respective person. The report and the case materials shall be sent to a prosecutor.

(2) Should the criminal investigative body consider that the conditions provided by law for a preventive measure have not been met, he/she shall address proposals in this regard as well.

Article 281. Bringing Formal Charges

(1) If following an examination of the report of the criminal investigative body and of the case materials the prosecutor considers that the evidence collected is conclusive and sufficient, he/she shall issue an order to bring formal charges against the person.

(2) The order to bring formal charges shall refer to the date it is issued; the issuer; the last name, first name, date, month, year and place of birth of the person charged and other data about the person that have legal significance for the case; a statement of the charge and an indication of the date, place, means and manner of the commission of the crime and of its consequences; the nature of guilt; the reasons and qualifying signs for legal qualification of the act; the circumstances due to which the crime was not consummated if it is at the stage of preparation or attempt and a note on charging the respective person as an accused in this case in line with the article, paragraph and letter of the Criminal Code providing for liability for the crime committed.

(3) Should the accused be held liable for the commission of several crimes to be legally qualified based on different articles, paragraphs or letters of the Criminal Code, the order shall refer to the specific crimes committed and to the articles, paragraphs or letters of the articles stipulating the liability for these crimes.
[Art.281 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 282. Filing Charges

(1) The prosecutor shall file charges against the accused in the presence of his/her attorney within 48 hours from the moment the order to bring formal charges is issued or no later than the day when the accused first appeared or was brought by force.

(2) Upon establishing the identity of the accused, the prosecutor shall acquaint him/her with the order to bring formal charges and shall explain to him/her its contents. These actions shall be validated by the signatures of the prosecutor, the accused, his/her attorney and other persons participating in this procedural action. The signatures shall be on the order to bring formal charges on which the date and hour of filing charges shall also be specified.

(3) Upon filing charges, the prosecutor shall explain to the accused his/her rights and obligations provided in art. 66. The accused shall be handed a copy of the order to bring formal charges and the written information on his/her rights and obligations. The aforementioned actions shall be also referred to in the order to bring formal charges in the manner specified in para. (2).

(4) The accused shall be interrogated the same day under the conditions in art. 104.

Article 283. Changing and Completing an Accusation

(1) If grounds for changing or completing the accusation filed against the accused appear in the course of the criminal investigation, the prosecutor shall be obliged to file a new charge against the accused or to complete the previous one in line with the provisions of the respective articles of this Code.

(2) If during a criminal investigation a specific part of the charges filed is not confirmed,, the prosecutor shall decide to discharge the person from that part of the accusation.

Article 284. Discharging a Person from a Criminal Investigation

(1) A person shall be discharged from a criminal investigation if it is stated that the act was not committed by the suspect/accused, in cases provided in art. 275 points 1)–3), and if there is present at least one of the circumstances specified in art. 35 of the Criminal Code eliminating the criminal nature of the act.

(2) A person may be discharged from a criminal investigation in whole or in relation to a part of the accusation.

(3) If the prosecutor states the grounds specified in paras. (1) and (2), at the suggestion of the criminal investigative body or ex officio he/she shall issue a reasoned order discharging the person from the criminal investigation.

(4) A person shall be discharged from a criminal investigation in line with the provisions of this Code regulating the termination of a criminal investigation which shall duly apply.

(5) If the prosecutor orders the discharge of a person from a criminal investigation, he/she shall return the case file to the criminal investigative body, instruct it to continue the criminal investigation and set the timeframe for it.
[Art.284 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 285. Termination of a Criminal Investigation

(1) A criminal investigation shall terminate in the cases listed in art. 275 and if it is established that:

1) the preliminary request was withdrawn by the injured party or if the parties have reconciled when a criminal investigation may be initiated only based on a preliminary complaint or if criminal law allows reconciliation;

2) there is present at least one of the circumstances or one of the cases provided in arts. 35 and 53 of the Criminal Code;

3) the person has not reached the age to be held criminally liable;

4) the person committed the prejudicial act in a state of irresponsibility and coercive medical measures are not necessary;

5) there is a final judgment of a criminal investigative body or of the court on the same accusation stating the impossibility of a criminal investigation on the same grounds.

(2) Should the act of the suspect/accused constitute an administrative contravention, the criminal investigation shall terminate.

(3) A criminal investigation may be terminated at any time during the criminal investigation if there are grounds specified in paras. (1) and (2). The termination of a criminal investigation may apply only to one person or to one act.

(4) The termination of a criminal investigation shall be ordered by the prosecutor ex officio or at the suggestion of the criminal investigative body. If the act constitutes an administrative contravention or if the person is exempted from criminal liability and subject to administrative liability, the prosecutor shall apply an administrative sanction except for the contravention arrest. If a sanction for the contravention is not within the competence of the prosecutor, the case shall be sent for examination to the investigative judge.

(5) The order terminating a criminal investigation shall contain in addition to the elements specified in art. 255 data on the person and the act the termination refers to and on the actual and legal grounds for termination.

(6) Upon the termination of a criminal investigation, the prosecutor shall, if needed, undertake the necessary measures to:

1) revoke any preventive measures and other procedural measures in the manner provided by law;

2) refund bail in cases and in the manner provided by law;

3) apply security measures;

4) collect judicial expenses.

(6^1) A criminal investigation may not be terminated and the person may not be exempted from criminal liability against his/her will.

(7) A copy of the order terminating a criminal investigation shall be handed to interested persons who shall be advised of the manner and the term for an appeal.

(8) Should the prosecutor establish that there are no grounds for terminating a criminal investigation or should he/she order a partial termination, he/she shall return the case file to

the criminal investigative body, instruct it to continue the criminal investigation and set the timeframe for it.
[Art.285 amended by Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]
[Art.285 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 286. Dismissing a Criminal Case

(1) Should there be no accused in the case and should one of the circumstances provided in art. 275 para. (1) points 1)–3) appear, the prosecutor shall, ex officio or at the suggestion of the criminal investigative body, order the dismissal of the criminal case.

(2) A copy of the order dismissing the criminal case shall be handed to interested persons who shall be advised of the manner and term for an appeal.
[Art.286 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 287. Resuming a Criminal Investigation after Its Termination, the Dismissal of a Criminal Case or the Discharge of a Person from a Criminal Investigation

(1) The resumption of a criminal investigation after its termination, after a criminal case has been dismissed or after a person's discharge from a criminal investigation shall be ordered by a higher-level prosecutor if subsequently it is stated that actually there were no grounds for these measures or that the circumstances substantiating the termination of the criminal investigation, the dismissal of the criminal case or the person's discharge from the criminal investigation have ceased to exist.

(2) The resumption of a criminal investigation may be also ordered by the investigative judge who admitted the complaint filed against the prosecutor's order to terminate the investigation or dismiss the criminal case or discharge a person from a criminal investigation.

(3) If a criminal investigation is resumed under this article and if, based on the case file the prosecutor considers it necessary to apply a preventive measure or a security measure, he/she shall decide to undertake the necessary measure or, as the case may be, shall make the respective suggestion to the investigative judge.

(4) Should the order to terminate a criminal investigation, dismiss a criminal case or discharge a person from a criminal investigation be issued illegally, the criminal investigation may be resumed only if new or recently discovered facts appear or if a fundamental fault committed during the previous investigation affected the respective judgment. If a fundamental fault is discovered, the criminal investigation may be resumed no later than within one year from the date the order terminating the criminal investigation, dismissing the criminal case or discharging a person from criminal a investigation became effective.
[Art.287 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 287[1]. Grounds, Manner and Timeframes for Suspending Criminal Investigations

(1) A criminal investigation shall be suspended if there is one of the following reasons preventing its continuation and for terminating it:

1) the accused evades the criminal investigation or trial or his/her location is not known;
2) the person who may be charged is not identified;

3) there is a refusal to deprive the person of immunity or a refusal to extradite the person by a foreign state if the criminal investigation cannot be completed in the absence of this person;

4) the accused develops a mental or any other severe disease preventing him/her from participating in the criminal proceeding and this is confirmed by a medical and forensic report from a state medical institution.

(2) Should one of the circumstances specified in para. (1) be established, the criminal investigative body shall transmit to the prosecutor its suggestions and the case file. The prosecutor shall decide in a reasoned order to suspend the criminal investigation.

(3) If two or more persons are charged in a case but the grounds to suspend the criminal investigation do not refer to all the accused, the prosecutor shall be entitled to split the case in a separate proceeding and to suspend the criminal investigation with regard to some of the accused persons or to suspend the criminal investigation of the entire criminal case if the investigation can not continue without the participation of all the persons accused.

(4) Prior to suspending the criminal investigation, all the criminal investigative actions that can be performed in the absence of the accused shall be performed and all possible measures to identify his/her location and to identify the person who committed the crime shall be undertaken.

[Art.287[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 287[2]. Actions of a Criminal Investigative Body after the Suspension of a Criminal Investigation

(1) A criminal investigative body shall be obliged to notify in writing an injured party or his/her legal representative, a civil party, a civilly liable party or their representatives about the suspension of a criminal investigation and shall explain their right to appeal the order to suspend a criminal investigation to the investigative judge. If a criminal investigation is suspended based on art. 287[1] para. (1) points 3) and 4), the accused and his/her defense counsel shall also be notified thereof.

(2) Following the suspension of a criminal investigation in the case provided in art. 287[1] para. (1) point 2), the criminal investigative body shall be obliged to undertake measures, both directly and through other bodies performing operative investigative activities, to identify the person who may be charged. The prosecutor shall periodically, however, not more frequently that once in six months, verify the search measures undertaken to identify the person.

(3) Should the criminal investigation be suspended, criminal investigative actions shall not be admitted in the criminal case.

[Art.287[2] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 287[3]. Resuming a Criminal Investigation after Suspension

(1) A criminal investigation may be resumed by a reasoned order issued by the prosecutor at the suggestion of the criminal investigative body or ex officio after the reasons for suspension have ceased to exist or certain criminal investigative actions have become necessary by which the timeframe of the criminal investigation shall be also set.

(2) The accused, his/her defense counsel, an injured party, a civil party, a civilly liable party or representatives thereof shall be notified of the resumption of the criminal investigation.
[Art.287[3] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 288. Investigations Aimed at Searching for the Accused

(1) If the location of the accused is unknown and if the accused, after charges have been filed, hides from a criminal investigative body, it shall submit to the prosecutor a proposal to order investigations aimed at finding the accused.

(2) Based on the proposal of the criminal investigative body and upon its examination or ex officio, the prosecutor shall decide by a reasoned order to search for the accused. He/she shall indicate in the order all the information available about the accused to be searched for. The search for the accused may be ordered both in the course of the criminal investigation and concurrently with its suspension.

(3) Should there be grounds to apply to the accused preventive measures, the prosecutor shall decide, at the same time, by an order, to apply the preventive measures in line with this Code.

(4) Investigations aimed at finding the accused shall be conducted by the bodies vested by law with such duties. The prosecutor ordering the investigations aimed at finding the accused shall manage this activity and shall periodically check on it.
[Art.288 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter VI
TERMINATING A CRIMINAL INVESTIGATION AND SENDING THE CASE TO COURT

Article 289. Transmitting a Case and the Proposal to Terminate a Criminal Investigation to the Prosecutor

(1) When stating that the evidence managed is conclusive and sufficient to terminate a criminal investigation, the criminal investigative body shall send to the prosecutor the case file accompanied by a report describing the result of the investigation and including a suggestion to order one of the solutions provided in art. 291.

(2) The report shall describe the act that served as grounds for initiating a criminal investigation, the information about the accused, the legal qualification of the act and the evidence managed.

(3) If a criminal investigation of the same case is conducted with regard to several acts and several persons, the report shall cover the remarks specified in para. (1) about all the acts and all the persons. At the same time, the report shall cover information about an act or a person subject to a termination of the investigation and shall discharge the person from the investigation as necessary.

(4) The report shall also cover information about:
1) material evidence, measures applied to such evidence and the place of their location;
2) security measures undertaken in the course of the criminal investigation;
3) judicial expenses;
4) preventive measures applied.

[Art.289 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 290. Verification by the Prosecutor of the Received Case File

(1) Within 10 days from the receipt of a case file sent by a criminal investigative body, the prosecutor shall verify the case file materials and the procedural actions performed and shall express his/her opinion thereon. Should the prosecutor identify evidence obtained contrary to the provisions of this Code and that violates the rights of the suspect/accused, he/she, in a reasoned order approved by a higher-level prosecutor shall exclude this evidence from the case file. The evidence excluded from the case file shall be kept under the conditions in art. 211 para. (2).

(2) Cases involving arrestees and juveniles are priorities and shall be settled in an urgent manner.
[Art.290 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 291. Solutions Ordered by a Prosecutor by the Termination of a Criminal Investigation

Should the prosecutor state that the provisions of this Code related to criminal investigations were observed, that a criminal investigation is complete and that there is sufficient legally managed evidence, he/she shall order one of the following solutions:

1) if the case materials indicate that a crime was committed, the perpetrator shall be identified and he/she shall be subject to criminal liability:

a) the prosecutor shall file charges against the perpetrator in line with arts. 281 and 282 if charges were not brought against him/her in the course of the criminal investigation and shall issue an indictment ordering that the case be sent to court;

b) if charges were brought against the perpetrator in the course of the criminal investigation, the prosecutor shall issue an indictment ordering that the case be sent to court;

2) in a reasoned order, the prosecutor shall decide to terminate the criminal investigation, dismiss the criminal case or discharge the person from the criminal investigation.

Article 292. Returning a Case or Transferring it to Another Criminal Investigative Body

(1) Should the prosecutor establish that a criminal investigation is not complete or that legal provisions were not observed during an investigation, he/she shall return the case to the body that conducted the criminal investigation or transfer the case to a competent body or to any other body in line with the provisions in art. 271 in order to complete the criminal investigation or, as the case may be, to eliminate violations of legal provisions. If the completion of the criminal investigation or the elimination of violations is required only with regard to some acts or some accused persons and it is not possible to split the case, the prosecutor shall decide to return the entire case so that these actions can be performed.

(2) A case shall be retuned or transferred by an order that in addition to the elements specified in art. 255 shall describe the procedural actions to be performed or redone, the facts and circumstances to be established and the sources of evidence to be used. The timeframe for the investigation shall be set.

(3) Should the prosecutor return the case or transmit it to another criminal investigative body, he/she shall be obliged to decide on any preventive measures and on other coercive procedural measures.

Article 293. Submission of Criminal Investigative Materials

(1) After the prosecutor verifies the case file materials and adopts one of the solutions provided in art. 291, he/she shall advise the accused, his/her legal representative, the defense counsel, the injured party, a civil party, a civilly liable party and their representatives that the criminal investigation is complete and of the place where and the term within which they may review the criminal investigative materials. A civil party, a civilly liable party and their representatives shall be allowed to review only the materials related to the civil action they are a party to.

(2) Criminal investigative materials shall be brought to the knowledge of the arrested/accused person in the presence of his/her defense counsel or upon the request of the accused to each of them separately.

(3) In order to be presented, criminal case materials shall be sewn in a case file, numbered and listed in the inventory. Upon the request of the parties, material evidence shall be presented and audio and video recordings shall be played except in cases provided in art. 110. If the criminal case consists of several volumes, they shall be submitted concurrently so that the person reviewing the respective materials can revert to any of these volumes whenever necessary. In order allow the review of voluminous case files, the prosecutor in an order may draft a schedule coordinated with the defense counsel setting the date and the number of the volumes to be reviewed.

(4) The term for reviewing criminal investigative materials may not be limited; however, if the person who is reviewing the materials abuses his/her situation, the prosecutor shall set the manner and the term for this action considering the case file volume.

(5) In order to ensure the confidentiality of state, commercial or any other secrets protected by law and to secure the protection of the life, corporal integrity and freedom of a witness and other persons, the investigative judge, based on a motion by the prosecutor, may limit the right of the persons mentioned in para. (1) to review the materials or data on their identity. The motion shall be examined in confidentiality in line with art. 305.

(6) After the persons mentioned in para. (1) review the criminal investigative materials, they may file new requests related to the criminal investigation that shall be settled in line with the provisions in arts. 245–247.
[Art.293 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 294. Transcript of Submitting Criminal Investigative Materials

(1) Transcript of submitting criminal investigative materials shall be prepared covering the information provided in art. 260 and the number of volumes and the number of pages in each volume of the case file reviewed, the material evidence included and any audio and video recordings played. The transcript shall also refer to the date, hour and minute of the beginning and the end of each daily review session.

(2) The transcript shall cover requests and statements made during this action and written requests shall be attached to it and a note to that effect shall be made therein.

(3) Separate transcript shall be prepared for the notification of the persons specified in art. 293 para. (1). Should the accused review the case materials in the presence of his/her defense counsel, one document shall be prepared.

Article 295. Settling Requests Related to the Completion of a Criminal Investigation

(1) Requests filed after reviewing criminal investigative materials shall be examined immediately by the prosecutor who shall issue a reasoned order admitting or rejecting them. The persons who filed the requests shall be notified thereof within 24 hours.

(2) Should the prosecutor admit the requests, he/she shall also order, if necessary, the completion of the criminal investigation and shall specify the additional actions to be performed and, as the case may be, shall send the case for execution to the criminal investigative body setting the timeframe for its execution.

(3) Upon the completion of the criminal investigation, additional criminal investigative materials shall be submitted in the manner provided in art. 293.

(4) The rejection by the prosecutor of a request or a motion does not deprive the person who filed it of the right to subsequently file it in court.

Article 296. Indictment

(1) Following the submission of criminal investigative materials, the prosecutor, except in cases stipulated in art. 516 para. (1) shall issue an indictment within not more than 3 days or in complicated and voluminous cases within not more than 10 days.

(2) The indictment shall consist of two parts: narrative and dispositive. The narrative part shall cover information about the act and the person subject to the criminal investigation, an analysis of evidence confirming the act and the guilt of the accused, the arguments invoked by the accused in his/her defense and the results of the verification of these arguments, the circumstances mitigating or aggravating the liability of the accused and the grounds, if any, for exemption from criminal liability in line with art. 53 of the Criminal Code. The dispositive part shall cover the data on the personality of the accused, the charges brought against him/her, the legal qualification of his/her actions and a statement about case transfer to a competent court.

(3) The indictment shall be signed by the prosecutor who issued it and the place and date of its issuance shall be specified.

(4) To the indictment shall be attached information about the duration of the criminal investigation, any preventive measures applied, the duration of preventive arrest, material evidence and the place of its storage, any civil action, protective measures undertaken, other procedural measures and judicial expenses.

(5) A copy of the indictment shall be handed against receipt to the accused and his/her legal representative and the fact shall be noted in the information attached to the indictment.

(6) The accused may submit in writing his/her response to the indictment and it shall be attached to the case file.

[Art.296 amended by Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]
[Art.296 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 296[1]. Issues Subject to Settlement by a Higher-Level Prosecutor in Cases Received by Him/Her to Confirm an Indictment

Upon receipt of a case file to confirm an indictment, a higher-level prosecutor shall be obliged to verify:

1) if the act imputed to the accused occurred and if this act constitutes a crime;

2) if one of the circumstances implying the termination of the criminal proceeding is present;

3) if the criminal investigation was comprehensive, complete and objective;

4) if the accusation is supported by evidence from the case file;

5) if charges were filed for all the crimes established during the criminal investigation as committed by the accused;

6) if charges were brought against all the persons proven to have committed the crime;

7) if criminal law was justly applied for the acts committed by the accused;

8) if an indictment was issued in line with the provisions of this Code;

9) if any preventive measures applied were justly selected;

10) if measures were undertaken to secure a civil action and the eventual confiscation of property;

11) if the reasons and conditions that contributed to the commission of the crime were clarified and if measures to eliminate them were undertaken;

12) if in the course of the criminal investigation, all other provisions of this Code were observed.

[Art.296[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 296[2]. Decisions of a Higher-Level Prosecutor in Cases Received by Him/Her to Confirm an Indictment

(1) A higher-level prosecutor shall be obliged within not more that five days to examine a case he/she received and to issue one of the following decisions:

1) to confirm by a resolution the indictment if he/she states there are grounds to send the case to court;

2) to reinitiate a criminal investigation and return the case to the person who conducted the criminal investigation and to provide written instructions on additional investigative activities;

3) to issue a reasoned order to terminate the criminal investigation;

4) to return the case to the lower-level prosecutor to correct the indictment if it was not prepared in line with art. 296.

(2) If the higher-level prosecutor disagrees with the indictment, he/she shall prepare a new indictment and the old indictment shall be removed from the case file and returned to the prosecutor who issued it with the specifications of any mistakes.

(3) The higher-level prosecutor shall be entitled to revoke or to change a preventive measure previously selected or to select a preventive measure if none was selected, except for the measures under the exclusive competence of the investigative judge and the court. The higher-level prosecutor shall be entitled to change the list of the persons to be summoned to the court hearing.

(4) The higher-level prosecutor shall be entitled in his/her order to delete from the indictment certain parts of accusation and to apply the law for a less serious crime. In these cases, if necessary, a new indictment shall be issued.

(5) Should it be necessary to replace the accusation with a more serious one or with one differing essentially from the initial accusation, the higher-level prosecutor shall return the case to the prosecutor who managed or conducted the criminal investigation so that a new charge can be filed.
[Art.296[2] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 297. Sending the Case to Court

(1) The prosecutor who issued the indictment shall send the case to court.

(2) Should the accused choose not to review the case materials and the indictment, the prosecutor shall send the case to court without these procedural actions; however, he/she shall attach to the case file evidence confirming the refusal of the accused or if the accused has evaded the court, information about the measures undertaken to search for him/her, provided that the case trial is possible in his/her absence.

(3) In the situation provided in para. (2), a copy of the indictment shall be mandatorily handed to the defense counsel and to the legal representative of the accused who shall also be provided with the case materials for review.

(4) All requests, complaints and motions filed after sending the case to court shall be settled by the court trying the case.

(5) Should the defendant be under preventive or house arrest, the prosecutor shall transmit the case to the court at least 10 days prior to the expiry of the term set for arrest.
[Art.297 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter VII
CONTROL BY THE PROSECUTOR OF THE LEGALITY OF THE ACTIONS AND INACTIONS OF THE CRIMINAL INVESTIGATIVE BODY AND OF THE BODY PERFORMING OPERATIVE INVESTIGATIVE ACTIVITIES
[Section in version of Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 298. Complaints about the Actions and Inactions of the Criminal Investigative Body and the Body Performing Operative Investigative Activities

(1) The suspect/accused, his/her legal representative, the defense counsel, an injured party, a civil party, a civilly liable party and their representatives and other persons whose legal rights and interests were injured by a criminal investigative body or the body performing operative investigative activities may file complaints about the actions and inactions of these bodies.

(2) Complaints about the actions and inactions of the criminal investigative body and the body performing operative investigative activities shall be addressed to the prosecutor managing the criminal investigation. Should the complaint refer to the prosecutor managing the criminal investigation or personally conducting the criminal investigation of the respective case, he/she shall be obliged to transmit within 24 hours the complaint filed and his/her explanations to a higher-level prosecutor.

(3) A complaint filed in line with this article shall not suspend the performance of the action contested unless the person conducting the criminal investigation or the operative investigative activities considers it necessary.

(4) Any statement, complaint or other circumstances substantiating an assumption that a person was subjected to torture, inhumane or degrading treatment shall be examined by the prosecutor under a separate proceeding and in the manner set out in art. 274.
[Art.298 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 299. Examination of Complaints by the Prosecutor

(1) Within 72 hours from receipt of the complaint the prosecutor shall be obliged to examine it and to notify about the decision the person who filed the complaint.

(2) If the complaint is rejected, the prosecutor shall describe in an order the reasons it is groundless explaining at the same time the procedure for an appeal against his/her decision to the investigative judge.
[Art.299 in version of Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 299[1]. Complaints about the Criminal Investigative Actions of the Prosecutor

(1) If a criminal investigation is conducted by the prosecutor, the persons specified in art. 298 para. (1) may file complaints about his/her actions with a higher-level prosecutor.

(2) The complaint shall be examined by the higher-level prosecutor within the timeframe and under the conditions provided in art. 299.
[Art.299[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter VIII
JUDICIAL CONTROL OF PRE-JUDICIAL PROCEEDINGS

Article 300. Scope of Judicial Control

(1) The investigative judge shall examine the motions of the prosecutor authorizing criminal investigative actions, operative investigative measures and the application of coercive procedural measures limiting the constitutional rights and freedoms of a person.

(2) The investigative judge shall examine complaints about the illegal acts of criminal investigative bodies or of the bodies performing operative investigative activities if the person making the complaint disagrees with the result of his/her request examination by the prosecutor or if he/she did not get a response to his/her complaint from the prosecutor within the timeframe provide by law.

(3) The investigative judge shall examine complaints about the illegal actions of the prosecutor who personally performed criminal investigative actions if the person making the complaint disagrees with the result of its examination by the prosecutor or if he/she did not get a response to his/her complaint from the prosecutor within the timeframe provide by law.

(4) Motions and complaints filed in line with the provisions of paras. (1)–(3) shall be examined by the investigative judge at the place of the criminal investigation or of the operative investigative measure.
[Art.300 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 301. Criminal Investigative Actions Authorized by the Investigative Judge

(1) Criminal investigative actions related to limiting the inviolability of a person; a domicile; the privacy of correspondence, telephone conversations, telegraphic or other communications and other actions provided by law shall be performed with the authorization of the investigative judge.

(2) Criminal investigative actions in the form of a search, an on-site investigation at a domicile and the sequestration of goods after a search may be performed, as an exception, without the authorization of the investigative judge based on a reasoned order of the prosecutor for flagrant crimes and in urgent cases. The investigative judge shall be notified about these criminal investigative actions within 24 hours and shall receive for verification the criminal case materials justifying the criminal investigative actions performed. Should there be sufficient grounds, the investigative judge shall declare in a reasoned ruling the legality or illegality of the criminal investigation.

(3) Should the legal requirements of the criminal investigative body not be executed, a forced corporal examination, a person's placement in a medical institution for evaluation and taking samples for comparative examination shall be authorized by the investigative judge.
[Art.301 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 302. Coercive Procedural Measures Applied with the Authorization of the Investigative Judge

(1) The following coercive procedural measures may be applied with the authorization of the investigative judge:

1) postponement for up to 12 hours of notification of relatives about the detention of a person;
2) court fines;
3) sequestration of goods;
4) other measures provided in this Code.

(2) The judgment of the investigative judge authorizing coercive procedural measures may be subject to cassation by the parties in a higher court within three days. The request for cassation shall be heard in line with arts. 311 and 312.
[Art.302 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 303. Operative Investigative Measures Authorized by the Investigative Judge

(1) Operative investigative measures related to limiting the inviolability of a person's private life and entering premises against the will of the persons living therein shall be applied with the authorization of the investigative judge.

(2) The following operative investigative measures shall be applied with the authorization of the investigative judge:

1) searching a domicile and installing audio, video, photo, filming etc. equipment therein;
2) surveillance of a domicile using technical means;
3) wiretapping and other means of monitoring conversations;
4) controlling telegraphic and other communications;
5) collecting information from telecommunication institutions.

Article 304. Motions on Authorizing Criminal Investigative Actions, Operative Investigative Measures or Coercive Procedural Measures

(1) The procedure for authorizing criminal investigative actions, operative investigative measures or coercive procedural measures shall start with the reasoned order of the body vested with such authority in line with this Code or the Law on Operative Investigative Activities, and on a motion of the prosecutor requesting consent for the respective actions.

(2) The descriptive part of the order shall describe the incriminating act; the place, time and manner of its commission; the form of guilt; the consequences of the crime based on which the criminal investigative actions or the operative investigative measures are to be performed; the results to be achieved with these measures; the timeframe for the respective actions and the place of their performance; the persons responsible for their execution; how the methods for registering results shall be determined and other data significant for the adoption by the investigative judge of a legal and grounded judgment. The order shall be attached to the materials confirming the need for these actions.

Article 305. Manner for Examining Motions on Criminal Investigative Actions, Operative Investigative Measures and Coercive Procedural Measures

(1) A motion on criminal investigative actions, operative investigative measures or coercive procedural measures shall be examined by the investigative judge in a closed hearing with the participation of the prosecutor and, as the case may be, the representative of the body performing the operative investigative activities.

(2) A person placed in a medical institution, provided his/her health allows; a person in whose regard an issue related to coercive procedural measures is settled, except for sequestration; the defense counsel; the legal representatives and the representatives of the aforementioned persons shall participate in the hearing in line with this Code. Transcripts shall be prepared in this instance.

(3) A motion for an operative search of premises, wire- and other conversations tapping shall be examined by the investigative judge immediately, however, not later than within 4 hours from receipt of the motion.

(4) Within the set timeframe the investigative judge shall open the hearing, announce the motion to be examined and verify the authority of the participants in the proceeding.

(5) The prosecutor who filed the motion shall justify the reasons and answer the questions of the investigative judge and participants in the proceeding.

(6) If persons whose interests are affected by the motion or their defense counsels and representatives participate in the hearing, they shall be allowed to give explanations and to take knowledge of all the materials submitted for the examination of the motion.

(7) Following the control over sufficiency of the motion the investigative judge shall authorize in a ruling the criminal investigative action or the operative investigative measure or the coercive procedural measure or shall reject the motion.

(8) The ruling of the investigative judge issued in line with this article shall be final except in cases provided in this Code.
[Art.305 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 306. Court Rulings on Criminal Investigative Actions, Operative Investigative Measures or Coercive Procedural Measures

A court ruling on criminal investigative actions, operative investigative measures or coercive procedural measures shall cover the date and place of its issuance; the last and first names of the investigative judge; the official and the body that filed the motion; the body performing the criminal investigative actions, operative investigative measures or coercive procedural measures; the purpose of these actions or measures, the person targeted; a statement authorizing the action or rejecting it, the duration of the authorization; the official or the body authorized to execute the ruling and the signature of the investigative judge certified by the stamp of the court.

Article 307. Examining Motions to Subject a Suspect to Preventive or House Arrest

(1) When establishing the need to subject a suspect to preventive or house arrest, the prosecutor shall, ex officio or at the suggestion of the criminal investigative officer, address to the court a motion to select a preventive measure. The motion shall cover the reason and the grounds for subjecting the suspect to preventive or house arrest. Supporting materials shall be attached to the motion.

(2) A motion to apply preventive or house arrest shall be immediately examined by the investigative judge in a closed hearing with the participation of the prosecutor, defense counsel and suspect. When submitting a motion to the court, the prosecutor shall ensure the suspect's participation in the hearing and shall notify the defense counsel and the legal representative of the suspect. If the defense counsel notified fails to appear, the investigative judge shall provide the suspect with a defense counsel in line with the Law on the Legal Assistance Guaranteed by the State.

(3) When opening the hearing, the investigative judge shall announce the motion to be examined, the prosecutor shall justify the motion and the other persons present at the hearing shall be heard.

(4) Following the examination of the motion, the investigative judge shall issue a reasoned ruling on applying preventive or house arrest or rejecting the motion. Based on that ruling, the investigative judge shall issue an arrest warrant and hand it to the prosecutor and to the suspect. The arrest warrant shall be executed immediately.

(5) The term of the suspect's arrest shall not exceed 10 days.

(6) The investigative judge shall be entitled to settle the issue on the need to select a milder preventive measure. By issuing a judgment for the provisional release of the person on bail, the suspect shall be kept under arrest until the bail set by the judge is paid to the deposit account of the prosecutor's office; however, the term of arrest shall not exceed 10 days.
[Art.307 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.307 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 308. Examining Motions to Subject the Accused to Preventive Arrest, House Arrest or to Extend the Term of Arrest of the Accused

(1) When establishing the need to apply to the accused preventive or house arrest or to extend his/her term of arrest, the prosecutor shall address to the court a motion to select the preventive measure or to extend the duration of arrest of the accused. The motion shall cover the reason and the grounds for the need to subject the accused to preventive or house arrest or to extend his/her duration of arrest. Supporting materials shall be attached to the motion.

(2) A motion to apply preventive or house arrest shall be immediately examined by the investigative judge in a closed hearing with the participation of the prosecutor, defense counsel, the accused, except for cases when the accused evades participation in the hearing at the place of the criminal investigation or at the place of the person's detention, and his/her legal representative. When submitting a motion to the court, the prosecutor shall ensure the participation in the hearing of the accused and shall notify the defense counsel and the legal representative of the accused. If the defense counsel notified fails to appear, the investigative judge shall provide the accused with a defense counsel in line with the Law on the Legal Assistance Guaranteed by the State.

(3) When opening the hearing, the investigative judge shall announce the motion to be examined, the prosecutor shall justify the motion and the other persons present at the hearing shall be heard.

(4) Following the examination of the motion, the investigative judge shall issue a reasoned ruling on subjecting the accused to preventive or house arrest or shall reject the motion. Based on the ruling, the investigative judge shall issue an arrest warrant and hand it to the prosecutor and the accused. The arrest warrant shall be executed immediately.

(5) Repeated motions to subject the same person to preventive or house arrest in the same case after a previous motion is rejected shall be allowed if there are new circumstances that serve as grounds to subject the accused to preventive or house arrest.

(6) The investigative judge shall be entitled to settle the issue on the need to select a milder preventive measure. When issuing a judgment on the provisional release of the person on bail, the accused shall be kept under arrest until the bail set by the judge is paid into the deposit account of the prosecutor's office.
[Art.308 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 309. Request for Provisional Release and Examination Thereof

(1) A request for provisional release in line with arts. 191 or 192 may be filed by the suspect/ accused/defendant, his/her spouse, close relatives in the course of the criminal investigation and case trial prior to completion of the judicial inquiry in the first instance.

(2) The request shall cover the last name, first name, domicile and procedural capacity of the person filing it and a note on his/her awareness of the provisions in this Code for cases when the revocation of provisional release is allowed.

(3) If provisionally released on bail, the request shall also cover the obligation to pay bail and a note on the awareness of the provisions in this Code for cases when bail is not refundable.

(4) A request filed with the administration of the person's place of detention shall be transmitted to a competent court within 24 hours.

Article 310. Admissibility of a Request for Provisional Release and Settlement Thereof

(1) The investigative judge shall verify the compliance of a request for provisional release with the provisions in arts. 191 or 192. Should the request not be in compliance with these provisions, the investigative judge shall issue a ruling rejecting the request and declaring it inadmissible without summoning the parties.

(2) Should the request comply with the provisions specified in para. (1) and should it be filed by the suspect/accused, the investigative judge shall declare the request admissible and shall set the date of its settlement summoning the parties.

(3) Should the request comply with the provisions in para. (1) but be filed by one of the persons specified in art. 309 other than the suspect/accused, the investigative judge shall order that the suspect/accused be brought and shall request that he/she confirm the request and only thereafter shall decide on its admissibility.

(4) When deciding on the admissibility of a request for provisional release on bail, the investigative judge shall set the amount of bail, notifying thereof the person who filed the request. Upon submitting a confirmation of payment of bail to the account of the court, it shall set the term for settling the request.

(5) On the date set, the investigative judge shall hear a request for provisional release with the participation of the prosecutor, suspect/accused, defense counsel and his/her legal representative and of the person who filed the request. The request shall be settled after the persons present are heard.

(6) Should the request be reasoned and meet all legal conditions, the investigative judge shall issue a reasoned ruling ordering the provisional release of the suspect/accused and setting the obligations to be observed by him/her.

(7) A copy of the ruling or, as the case may be, an excerpt from the ruling shall be transmitted to the administration of the place of detention of the suspect/accused and to the police in the territorial jurisdiction in which the suspect/accused lives.

Article 311. Cassation against a Ruling of the Investigative Judge on the Application or Non-Application of Arrest, on Extending or Refusing to Extend Its Duration or on Provisional Release or a Refusal to Provisionally Release

(1) Cassation request against a ruling of the investigative judge on the application or non-application of preventive or house arrest, on extending or refusing to extend its duration, on the provisional release or refusal to provisionally release shall be filed by the prosecutor, suspect/accused, his/her defense attorney, his/her legal representative with the court that issued the ruling or via the administration of the place of detention within three days from the date of the ruling. The term of three days shall commence for the arrestee as of the date the copy of the ruling was handed to him/her.

(2) Upon receiving the request for cassation, the administration of the place of detention shall be obliged to register it and send it immediately to the court that issued the ruling, notifying the prosecutor thereof.

(3) Upon receiving the request for cassation, the court that issued the ruling shall within 24 hours send it and the respective materials to the court of cassation, setting the date for hearing the request for cassation and notifying thereof the prosecutor and the defense counsel. Upon receiving the request for cassation, the court of cassation shall request from the prosecutor the materials confirming the need to apply the respective preventive measure or to extend its duration.

(4) Upon receiving notification about the date of the cassation hearing, the prosecutor shall be obliged within 24 hours to submit to the court of cassation the respective materials.
[Art.311 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 312. Judicial Determination of the Legality of the Ruling on Preventive Measures Applied and on Extending Their Duration

(1) Judicial determination of the legality of the ruling of the investigative judge on preventive measures applied and on extending their duration issued in line with arts. 307–310, shall be performed in a higher-level court by a panel of three judges.

(2) The court of cassation shall hear a request for cassation within three days from the moment of its receipt.

(3) Judicial determination of the legality of arrest shall be performed in a closed hearing with the participation of the prosecutor, suspect/accused, his/her defense counsel and legal representative. The failure of a suspect/accused not deprived of liberty and of his/her legal representative who were summoned in the manner duly provided by law to appear shall not prevent a hearing for cassation.

(4) When opening a hearing in a court of cassation, the chairperson of the hearing shall announce the request for cassation to be heard and shall specify whether the persons present at the hearing are clear on their rights and obligations. Thereafter, the cassation appellant, if taking part in the hearing, shall justify cassation and the other persons present at the hearing shall be examined.

(5) Following judicial determination, the court of cassation shall issue one of the following decisions:

1) admit cassation by:

a) cancelling the preventive measure ordered by the investigative judge or cancelling the extension of its duration and, if necessary, releasing the person under arrest;

b) applying the respective preventive measure rejected by the investigative judge and issuing an arrest warrant or applying a different preventive measure at the discretion of the court of cassation but not one more severe than the one requested in the prosecutor's motion or extending the duration of the respective measure;

2) reject cassation.

(6) Should the materials confirming the legality of the respective preventive measure or of the extension of its duration not be submitted in the hearing, the court of cassation shall issue a decision cancelling the preventive measure ordered or, as the case may be, the extension of its duration and shall release the detainee or arrestee.

(7) A copy of the decision of the court of cassation or, as the case may be, the arrest warrant shall be immediately handed to the prosecutor and the suspect/accused. If a decision cancelling the preventive measure or the extension of its duration was issued, a copy of the decision shall be sent the same day to the place of detention of the arrestee or, respectively, to the police office from the place of domicile of the suspect/accused. If the person in whose regard preventive or house arrest was cancelled or who was provisionally released participates in the hearing, he/she shall be immediately released in the courtroom.

(8) Should cassation be rejected, the hearing of a new request for cassation involving the same person in the same case shall be admitted upon each extension of the duration of the respective preventive measure or upon the absence of grounds for preventive detention.
[Art.312 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 313. Complaints about the Actions and Illegal Acts of a Criminal Investigative Body and the Body Performing Operative Investigative Activities

(1) Complaints about the actions and illegal acts of a criminal investigative body or of the body performing operative investigative activities may be filed with the investigative judge by the suspect/accused, the defense counsel, the injured party, other participants in the proceeding or other persons whose legal rights and interests were violated by these bodies provided that the person filing the complaint disagrees with the result of an examination of his/her complaint by the prosecutor or did not get a response to his/her complaint from the prosecutor within the timeframe provided by law.

(2) The persons specified in para. (1) shall be entitled to appeal to the investigative judge:

1) a refusal of the complaint by the criminal investigative body:

a) to accept the complaint or denunciation on the preparation or the commission of a crime;

b) to satisfy the motion in cases provided by law;

c) to initiate a criminal investigation;

2) orders terminating criminal investigations, dismissing a criminal case or discharging a person from a criminal investigation;

3) other actions affecting the constitutional rights and freedoms of a person.

(3) A complaint may be filed within 10 days with the investigative judge at the location of the body that committed the violation.

(4) A complaint shall be examined by the investigative judge within 10 days and the prosecutor shall participate and the person who filed the complaint shall be summoned.

Failure to appear by the person who filed the complaint shall not prevent an examination of the complaint. The prosecutor shall be obliged to submit to the court the respective materials. The prosecutor and the person who filed the complaint shall provide explanations during the examination of the complaint.

(5) The investigative judge, considering that the complaint is reasoned, shall issue a ruling obliging the prosecutor to eliminate violations discovered of the rights and freedoms of the individual or the legal entity and, as the case may be, shall declare the nullity of the procedural act or action appealed. Upon establishing that the acts and actions appealed were performed in line with the law and that the rights and freedoms of the individual or the legal entity were not violated, the investigative judge shall issue a ruling rejecting the complaint filed. A copy of the ruling shall be sent to the person who filed the complaint and to the prosecutor.

(6) The ruling of the investigative judge shall be irrevocable.
[Art.313 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Title II
TRIAL

Chapter I
GENERAL CONDITIONS FOR A CASE TRIAL

Article 314. The Direct, Oral and Adversarial Nature of a Case Trial

(1) When trying a case, the court shall be obliged to analyze directly and comprehensively the evidence submitted by the parties or managed at their request; inclusively to hear the defendants, injured parties, and witnesses; to examine material evidence; to read out expert reports, transcripts and other documents and to examine other evidence provided in this Code.

(2) When trying a case, the court shall create for the prosecution and defense the conditions necessary for a multilateral and complete examination of the circumstances of the case.

(3) Deviations from the conditions specified in paras. (1) and (2) may be admitted only in cases provided in this Code.

Article 315. Equality of Parties' Rights in Court

The prosecutor, injured party, civil party, defense counsel, defendant, civilly liable party and their representatives shall benefit from equal rights in court in terms of managing evidence, participating in its examination and formulating requests and motions.

Article 316. Public Nature of a Court Hearing

(1) The court hearing shall be public, except for cases stipulated in art. 18. Any person may attend the hearing except for juveniles under the age of 16 and armed persons.

(2) The chairperson of the hearing may allow the presence in the hearing of juveniles and armed persons obliged to carry arms by virtue of their office.

(3) The chairperson of the hearing may allow representatives of mass media organizations if the case is of public interest to make audio and/or video recordings and to take photographs of some parts of the opening of the hearing to the extent such actions do not interfere with the normal unfolding of the hearing and do not affect the interests of the participants in the proceeding.

(4) The chairperson of the hearing may limit public access to the hearing considering the conditions of the case trial.

Article 317. Chairperson of a Court Hearing

(1) Court hearings are presided over by a judge or a chairperson of a panel of judges to whom the case was assigned for hearing in line with the provisions in art. 344.

(2) The chairperson shall preside over the hearing and, in the interests of justice, shall undertake all measures provided in this Code to ensure the equality of the rights of the parties involved and objectivity and impartiality, creating the necessary conditions for a comprehensive, complete and objective examination of all evidence submitted by the parties or managed at their request.

(3) The chairperson of the court hearing shall bring up for discussion the requests formulated by the parties and the court shall decide thereon. In the course of the hearing, questions shall be addressed via the chairperson. He/she may allow questions to be addressed directly.

(4) The chairperson of the court hearing shall ensure that order in the hearing is kept eliminating anything unrelated to the judicial proceeding. The chairperson shall also verify if the participants in the proceeding are aware of their rights and obligations and shall secure the exercise thereof.

(5) Should one of the participants in the proceeding object to the actions of the chairperson of the hearing, the objections shall be entered in the transcript of the hearing.

Article 318. Court Secretary

(1) The secretary of the court hearing shall undertake all preparatory measures resulting from the provisions in this Code and the instructions of the chairperson of the hearing so that a case hearing scheduled for a specific date is not postponed.

(2) The court secretary shall call the roll of the parities and other persons who will participate in the hearing, shall identify persons missing and the reasons for their absence and shall announce them in the hearing.

(3) The court secretary shall prepare the transcript of the hearing. Should there be discrepancies between the court secretary and the chairperson of the hearing in terms of the contents of the transcript, the court secretary shall be entitled to attach to the transcript his/her objections which shall be settled in the manner set forth in art. 336.

Article 319. Parties Summoning to a Hearing

(1) A case may be heard only if the parties are legally summoned and the procedure for summoning is performed.

(2) A party present at a hearing shall not be summoned to subsequent hearings even if he/she will fail to appear at one of these hearings.

(3) Should the case hearing be postponed, the witnesses, experts, interpreters and translators present shall be informed about the new date of the hearing.

(4) Upon the request of the persons mentioned in paras. (2) and (3), the court shall hand them a summons for the new date of the hearing to serve as a justification at their places of employment.

(5) When a trial is ongoing, the parties and other participants in the proceeding shall not be summoned any longer.

(6) Servicepersons shall be summoned to every hearing.

(7) If detainees are summoned, the administration of the person's place of detention shall be notified of every date of the hearing.

(8) Persons who appear when summoned shall be issued, at their request, a certificate justifying their appearance in court.

Article 320. Participation of the Prosecutor in a Case Hearing and the Effects of His/Her Failure to Appear

(1) The participation of the prosecutor in the hearing of a case shall be mandatory and he/she shall perform the duties specified in art. 53. The prosecutor who managed the criminal investigation or, as the case may be, personally conducted the criminal investigation of the respective case shall participate in a case hearing in the first instance. If he/she cannot participate, the higher-level prosecutor shall decide that another prosecutor shall take part in the hearing. If necessary, the higher-level prosecutor may order the participation of a group of prosecutors.

(2) Representing the public, the prosecutor shall follow the provisions of the law and his/her own convictions based on the evidence examined in the hearing.

(3) The failure of the prosecutor to appear at a hearing shall lead to the postponement of the hearing, and the higher-level prosecutor shall be notified thereof. The prosecutor may be sanctioned for an unjustified absence with a court fine if such an absence generated additional judicial expenses.

(4) If during the case hearing it is established that the prosecutor cannot further participate in the hearing, he/she may be replaced by another prosecutor. The court shall provide the prosecutor who intervened in the proceeding with sufficient time to review the case materials, including the ones examined in court, and to prepare for further participation in the proceeding; however, the replacement of the prosecutor shall not imply the recommencement of the case hearing. The prosecutor shall be entitled to require that certain procedural actions

already performed in the hearing in his/her absence be repeated if he/she needs to specify additional issues.
[Art.320 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 321. Participation of the Defendant in a Case Hearing and the Effects of His/Her Failure to Appear

(1) A case shall be heard in the first instance and in the court of appeals with the participation of the defendant, except in cases specified in this article.

(2) A case may be heard in the absence of the defendant:
1) if the defendant evades appearing in court;
2) if the defendant, being under arrest, refuses to be brought before the court to the case hearing and if his/her refusal is confirmed also by his/her defense counsel;
3) if cases related to commission of minor crimes are examined and the defendant requires that the case is heard in his/her absence.

(3) Should a case be heard in the absence of the defendant, the participation of the defense counsel and, as the case may be, of his/her legal representative shall be mandatory.

(4) The failure of the defendant to appear shall lead to the postponement of the case hearing, except in the cases specified in para. (2).

(5) If the defendant unjustifiably fails to appear at a case hearing, the court shall be entitled to order the summoning by force of the defendant and to apply a preventive measure or to replace it with another measure that would ensure his/her presence, or upon a motion of the prosecutor to order an official search for the defendant. A ruling on an official search for the defendant shall be executed by the home affairs bodies.

(6) The court shall decide on a case hearing in the absence of the defendant for the reasons specified in para. (2) point 1) only if the prosecutor submits sound evidence that the person accused and in whose regard the case was sent to court expressly waived his/her right to appear before the court and to defend himself/herself personally and has evaded criminal investigation and trial.
[Art.321 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 322. Participation of the Defense Counsel in a Case Hearing and Effects of His/Her Failure to Appear

(1) The defense counsel shall participate in the case hearing and exercise his/her rights and obligations in line with the provisions of arts. 67–69 which shall duly apply.

(2) During the hearing of a case, the defense counsel shall benefit from the same rights as the prosecutor.

(3) Should the defense counsel fail to appear or should it be impossible to replace him/her in the respective hearing, the hearing shall be postponed. The defense counsel may be sanctioned for an unjustified absence with a court fine if such an absence generated additional judicial expenses.

(4) The replacement of a defense counsel who fails to appear at a hearing shall be allowed only with the consent of the defendant.

(5) If the participation of the defense counsel selected by the defendant is impossible for a period exceeding five days, the court shall postpone the hearing and suggest that the defendant select another defense counsel. If the defendant refuses to select another defense counsel, the court shall require that the Coordinator of the Regional Office of the National Council for the Legal Assistance Guaranteed by the State appoint an attorney to provide the legal assistance guaranteed by the state. In order to replace the defense counsel under this article, the court shall set for the defendant a five-day term.

(6) When settling the issue of postponing a hearing due to replacing the defense counsel, the court shall consider the reasonableness of such a judgment taking into account the time already spent for the hearing, the complexity of the case, the time required to study the case materials by the defense counsel intervening in the proceeding and other circumstances for the preparation of the defense. The court shall provide the defense counsel intervening in the proceeding with sufficient time and shall ensure the possibility for him/her to review the case materials, including those examined by the court, and to prepare for further participation in the proceeding; however, the replacement of the defense counsel shall not imply a recommencement of the case hearing. The defense counsel shall be entitled to require that certain procedural actions already performed in the hearing in his/her absence be repeated if he/she needs to specify additional issues.
[Art.322 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 323. Participation of an Injured Party in a Case Hearing and Effects of His/her Failure to Appear

(1) An injured party participating in the case hearing shall have the rights and obligations provided in art. 60.

(2) A case shall be heard in the first instance and in a court of appeals with the participation of the injured party or his/her representative, except in cases provided in this Code.

(3) Should the injured party unjustifiably fail to appear, the court, upon hearing the opinions of the parties, shall decide to hear the case or to postpone it depending on whether the case may be heard in the absence of the injured party without prejudice to his/her rights and interests.

(4) Upon a justified request of the injured party, the court may exempt him/her from appearing at the hearing, obliging him/her instead to appear on a set date to be heard.

(5) Should the injured party unjustifiably fail to appear in court, the injured party may be brought by force and a court fine may be imposed.
[Art.323 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 324. Participation of a Civil Party and a Civilly Liable Party in a Case Hearing and Effects of Their Failure to Appear

(1) A civil party and a civilly liable party or their representatives shall participate in a case hearing and shall have the rights and obligations provided in arts. 62, 74 and 80.

(2) Should a civil party or his/her representative fail to appear, the court shall leave the civil action unsettled and, in this case, the civil party shall preserve his/her right to file an action in the manner set out in civil procedures.

(3) Upon a justified request of the civil party or his/her representative, the court may decide to hear the civil action in his/her absence.

(4) The failure of a civilly liable party or his/her representative to appear in court shall not prevent the hearing of a civil action.

Article 325. Limits for Hearing Cases

(1) A case shall be heard in the first instance only in regard to the person accused and only within the limits of the charge formulated in the indictment.

(2) The court may change the charge only if such a change does not exacerbate the defendant's situation and does not injure his/her right to defense. A change of charge exacerbating the situation of the defendant shall be allowed only in cases and under conditions provided in this Code.

Article 326. Exacerbating a Charge in a Hearing

(1) A prosecutor participating in a criminal case hearing in the first instance and in a court of appeals shall be entitled in an order to exacerbate the charges filed against the defendant in the course of the criminal investigation if the evidence examined in the hearing undeniably proves that the defendant committed a crime more serious than the previously incriminating one, and the defendant, his/her defense counsel and, as the case may be, the legal representative of the defendant shall be notified of the new charge. At the request of the defendant and his/her defense counsel, the court shall provide the defense with the time necessary to prepare for the new charge. Afterwards, the case hearing shall continue. In a court of appeals, the prosecutor may exacerbate the charges only if he/she requested the appeal.

(2) Should it be established during the case hearing that the defendant committed another crime or that new circumstances appeared that will influence the legal qualification of the charges brought against him/her or that the crime was committed in complicity with another person who was unjustifiably or illegally discharged from the criminal investigation, the court, at the request of the prosecutor, shall postpone the hearing of the case for up to one month and shall return the case to the prosecutor so that the criminal investigation of this crime is conducted or resumed in the manner set out in art. 287 and a new charge is formulated and filed against the defendant with the participation of the defense counsel. In the first case, the court shall return the criminal case file without the indictment and the transcript of the hearing and attachments thereto. If the case is returned to the prosecutor for resumption of a criminal investigation of a person previously discharged from the criminal investigation of the same case, the court shall return the criminal case file with the indictment. Afterwards, the new materials obtained in the course of the criminal investigation shall be brought to the knowledge of the defendant, of his/her defense counsel and of other interested participants in line with the provisions in arts. 293 and 294. Subsequently, the case shall be submitted to the respective court so that the case trial continues. Upon a motion of the prosecutor, the

timeframe set in this paragraph may be extended by the court for up to two months, upon the expiry of which the case shall be mandatorily transmitted to the court to continue the trial.

(3) If, after a new and more serious charge is filed, the competence of the court hearing the criminal case changes, the court shall decide in a ruling to transfer the criminal case by competence.
[Art.326 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 327. Submitting Additional Evidence

At the request of the parties, the court may postpone a hearing for up to one month so that they can submit additional evidence if they consider that the evidence submitted to the court is insufficient to support their positions. Additionally submitted evidence shall be examined in the hearing in the usual manner. Should the parties fail to submit additional evidence within the set timeframe, the court shall settle the case based on the available evidence.

Article 328. Waiver of Evidence

(1) In the course of the case hearing, the parties may waive some evidence proposed.

(2) Upon discussing the waiver of evidence, the court shall decide that such evidence shall not be examined unless another party requires its examination.

Article 329. Settling the Issue of Preventive Measures

(1) In the course of the case hearing, the court ex officio or at the request of the parties and on hearing their opinions shall be entitled to decide on the application, replacement or revocation of any preventive measure applied to the defendant. A new request on the application, replacement or revocation of a preventive measure may be filed if grounds to do so appear, however, not earlier than one month after a previous ruling on this issue became effective or provided that new circumstances substantiating a new request do not occur.

(2) If preventive arrest is applied, a court judgment may be subject to cassation within three days to a higher court to hear the case in line with the provisions in art. 312 which shall duly apply.

Article 330. Suspending and Resuming a Case Hearing

(1) The suspension of a case hearing shall be decided if it is established that the defendant suffers from a serious illness preventing him/her from participating in the case hearing. The court shall decide to suspend and resume the case hearing after suspension in a reasoned ruling.

(2) Should a criminal case involve several defendants one of whom develops a serious illness, the criminal proceeding in his/her regard shall be suspended until recovery, while the case hearing in the other participants' regard shall continue. The defense attorney of the defendant in whose regard the proceeding was suspended shall participate in the trial of the other defendants and shall represent him/her if the crime was committed with complicity.

(3) Upon resumption of a proceeding suspended in line with para. (2), the same judge or, as the case may be, panel shall hear the case of the defendant in whose regard the proceeding is resumed. To this effect, the chairperson of the hearing shall present to the defendant the materials of the hearing with respect to convictions in this case for him/her to review and to prepare his/her defense. For the defendant in whose regard the proceeding was suspended, it shall resume from the suspended hearing stage. The defendant and his/her defense counsel shall be entitled to require that certain procedural actions performed in the absence of the defendant be repeated if he/she needs to additionally specify certain issues.
[Art.330 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 331. Postponement of a Hearing

(1) If the case may not be heard due to the failure to appear at the hearing of one of the parties or of the witnesses or due to other justified reasons, the court, upon hearing the opinions of the parties, shall decide to postpone the hearing and order the party obliged to present evidence to undertake respective measures to ensure the presence of absentees and to ensure the case can be heard on the date set by the court.

(2) Should in the course of the case hearing it become necessary to manage new evidence or to exacerbate the charges brought against the defendant and due to other circumstances in line with arts. 326 and 327, the court shall postpone the hearing for the respective term, agreeing with the parties upon a date to continue the hearing. When deciding to postpone the hearing, the chairperson shall set the date, hour and place of the hearing, and the parties and persons present at this hearing shall be obliged to appear on the date set without being additionally summoned. Concurrently, the provisions in art. 201 shall apply correspondingly.

(3) The court's decision on postponing the hearing shall be adopted in a reasoned ruling recorded in the transcript of the hearing.

Article 332. Termination of a Criminal Proceeding in a Hearing

(1) Should in the course of the case hearing one of the grounds set forth in arts. 275 points 2)–9), 285, par. (1) points 1), 2), 4), 5) be established, and in cases provided in arts. 53–60 of the Criminal Code, the court shall terminate the criminal proceeding on the respective case in a reasoned sentence.

(2) Should the act of the person constitute an administrative contravention, the court shall terminate the criminal proceeding and, concurrently, settle the case in line with the Code for Contraventions.

(3) In addition to terminating the criminal proceeding, the court shall undertake the respective measures provided in arts. 54 and 55 of the Criminal Code and shall decide on the issues provided in art. 285 para. (6).

(4) The sentence terminating a criminal proceeding may be subject to appeal or, as the case may be, cassation in a higher court in the manner set out in this Code.

(5) In the case set forth in art. 275 point 4), terminating a criminal proceeding shall not be admitted without the consent of the defendant. In this case the proceeding shall continue in the usual manner.
[Art.332 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 333. Order and Solemnity during a Hearing

(1) Cases shall be heard in conditions ensuring the normal activity of the court and the security of the participants in the proceeding.

(2) When the judge or the panel of judges enters the courtroom, the court secretary shall announce: “All rise, court is in session” and all those present in the courtroom shall stand up. At the invitation of the chairperson of the hearing, everyone shall sit down.

(3) All the participants in the hearing shall address the court with the words “honorable court” or “your honor” and standing shall make statements, formulate requests and answer questions. Deviations from this rule shall be admitted only with the permission of the chairperson of the hearing.

(4) The persons present in the courtroom, including the participants in the hearing, shall be obliged to follow the orders of the chairperson of the hearing related to maintaining order during the hearing.

Article 334. Measures Applied to Persons Violating Order during a Hearing

(1) The chairperson of the hearing shall maintain order and solemnity during a hearing and shall be entitled to undertake measures necessary for this purpose.

(2) Should the defendant disturb court order and disobey the orders of the chairperson of the hearing, the latter shall draw his/her attention to the need to maintain discipline, whereas in the case of a repeated breach of order or of a gross deviation from it, the judge or, as the case may be, the panel of judges shall order his/her removal from the courtroom and shall continue the proceeding in his/her absence. The sentence shall, however, be pronounced in the presence of the defendant or shall be brought to his/her knowledge immediately after pronouncement.

(3) Should the prosecutor or the attorney disturb the order of the hearing and disobey the orders of the chairperson of the hearing, they shall be sanctioned with a court fine, and the Prosecutor General, the Bar Council and the Minister of Justice shall be notified about their behavior.

(4) Should the injured party, civilly liable party or their representative violate the order of the hearing or disobey the orders of the chairperson of the hearing, the court may decide in a ruling on their removal from the courtroom. Other persons present at the hearing may be removed from the courtroom for the same actions by an order of the chairperson of the hearing.

(5) The persons specified in para. (4) who show their contempt for the court by breaching the order of the hearing and by committing certain acts indicative of an obvious disrespect to the court, may be subject to a court fine by a court ruling.

Article 335. Establishing Crimes Committed during a Hearing

(1) Should, in the course of the case hearing, an act provided in the Criminal Code be committed, the investigative judge or, as the case may be, the chairperson of the hearing shall establish this act and identify the perpetrator and this shall be noted in the transcript. An excerpt of the transcript shall be handed to the prosecutor.

(2) If necessary, the court may decide in a ruling to detain the perpetrator, a copy of which along with the perpetrator shall be immediately sent to the prosecutor.

Article 336. Transcript of the Hearing

(1) When hearing a case in first instance and in a court of appeals, the course of the hearing shall be described in the transcript prepared by the court secretary. The transcript shall be typed on a computer and kept in the manner set by the Superior Council of Magistracy. Should it be impossible to use a computer, the transcript shall be handwritten and subsequently typed on a computer.

(2) In order to ensure the completeness of the transcript, audio and/or video recording devices or other technical means shall be used during hearings. The use of technical recording devices during a hearing shall be mentioned in the transcript. Should their use be impossible, the judge shall decide in a reasoned ruling that the hearing shall be conducted without audio and/or video recording devices or other technical means.

(3) The transcript of the hearing shall cover:

1) the date, month and year and name of the court and the time when the hearing started;

2) the last and first names of the judges, court secretary and interpreter if one takes part in the hearing;

3) the last and first names of the parties and other persons participating in the proceeding and present at the hearing and of absentees specifying their procedural capacity and the fact that they were summoned;

4) a notation about the public or closed character of the hearing;

5) the nature of the crime for which the defendant is tried and the legal qualification of the act;

6) a description of all actions of the court in the order they were performed;

7) the requests and motions of the parties and other participants in the proceeding and court rulings either in the transcript or issued separately with a notation in the transcript;

8) documents and other evidence examined in the hearing;

9) violations of order during the hearing and the measures applied to those breaching order;

10) a summary of the judicial inquiry and a summary of the final plea of the defendant;

11) the time when the court judgment was pronounced and a note that the defendant was advised of the procedure and the term for an appeal.

(3^1) The participants in the proceeding may request that certain parts of the transcript be read out or that certain circumstances examined during the hearing they consider essential for the case settlement be mentioned in the transcript.

(4) The transcript shall be edited by the court secretary within 48 hours from the completion of the hearing and shall be signed by the chairperson of the hearing and by the court secretary. Should there be audio and/or video recordings of the hearing, the court secretary shall use such to very the accuracy of the transcript.

(5) The chairperson of the hearing shall within five working days from the date of signature expressly specified in the transcript, notify in writing the participants in the proceeding about the fact that the transcript has been prepared and signed and shall provide them with the possibility to review the transcript of the hearing and to get copies of it. If the hearing was recorded by audio and/or video devices, the participants in the proceeding shall be notified in writing about the possibility to get copies of the audio and/or video recordings of the hearing.

(6) Within three working days from the date the signature on the transcript was announced, the participants in the proceeding shall be entitled to formulate objections to the transcript, specifying any inaccuracies and the reasons why they consider it to be incomplete.

(7) Objections to the transcript shall be examined by the chairperson of the hearing who may invite the person who made the objections to specify certain issues. Should the objections be accepted, the result of their examination shall be formulated in a resolution on the text of the objections. If they are rejected it shall be done in a reasoned ruling. The objections and the ruling shall be attached to the transcript.

(8) The participants in the proceeding shall be entitled to a copy of the transcript or of the audio and/or video recording of the hearing. A copy of the audio and/or video recording of the hearing shall be issued by the court secretary at the written or oral request of the participants in the proceeding for a fee set by the government which shall not exceed the expenses incurred by the court for making such a copy.

(9) The provisions in para. (8) shall not apply if a case is heard in a closed hearing. In such a case, the participants in the proceeding shall be entitled to review the written transcript, to copy out information from it and to listen to/watch the audio/video recording of the respective hearing.
[Art.336 amended by Law No. 15-XVI dated 03.02.2009, in force as of 20.03.2009]

Article 337. Entering Statements of Parties and Witnesses during a Hearing

(1) The statements of the defendant, injured party, civil party, civilly liable party and witnesses during a hearing shall be entered by the court secretary in separate written documents attached to the transcript. Written statements shall be read out by the court secretary and at the request of the person who made the statement, he/she shall be granted the possibility to read it. If the person who made the statement confirms its contents, he/she shall sign it on every page and at the end. If the person who made the statement cannot or refuses to sign, an entry to that effect shall be made in the written statement and the reasons for the refusal shall be specified.

(2) A written statement shall be signed by the chairperson of the hearing, by the court secretary and by the interpreter if the statement was made via him/her.

(3) If the person who made the statement reverts to one of his/her previous statements or makes additions, corrections or specifications, a relevant entry shall be made and signed in line with this article.

Article 338. Settling a Case

(1) Deliberations and pronouncements of a judgment shall take place immediately upon the completion of the judicial inquiry. For justified reasons, the deliberation and pronouncement of a judgment may be postponed by 10 days at the most.

(2) If a case is tried by one judge, he/she may issue the respective judgment immediately in the courtroom. If necessary and in order to settle the case, the judge may announce a recess on the same day or, as the case may be, may postpone the issuance of a judgment for the timeframe specified in para. (1).

(3) If the pronouncement of a judgment is postponed, the chairperson of the hearing shall inform the parties present about the time and date when it will be pronounced.

Article 339. Procedure for Deliberation

(1) Only the judges who tried the case shall take part in the deliberations. A panel of judges shall deliberate secretly. Disclosing issues discussed during the deliberations shall be prohibited.

(2) A panel of judges headed by the chairperson of the hearing shall discuss all the issues provided by law to be settled. Each issue shall be formulated so that it is answered affirmatively or negatively. As a rule, the judgment shall be unanimous.

(3) If there is no unanimity on the issues deliberated, the judgment shall be passed by majority vote.

(4) If more than two opinions result from a deliberation, the judge who supports the most severe solution shall adhere to the opinion that is the closest to his/hers.

(5) None of the judges has the right to abstain from voting on any issue to be settled. In all cases, the chairperson shall be the last to vote.

(6) The result of the deliberations shall be entered in the respective integral judgment or in the dispositive section and shall be signed by all the judges who participated in the deliberations.

(7) Should one of the judges on the panel have a dissenting opinion, he/she shall express it in writing and the reasons for it while at the same time he/she will be obliged to sign the judgment passed by majority vote.

Article 340. Pronouncing Judgment

(1) Judgment shall be pronounced in a public hearing by the chairperson of the hearing or by one of the judges on the panel assisted by the court secretary.

(2) When a judgment is pronounced, all those present shall stand up and listen.

(3) If in the course of passing judgment a dissenting opinion is expressed, the persons present at the pronouncement of the judgment shall be informed thereof, and the opinion shall be attached to the judgment.

Article 341. Types of Court Judgments

(1) In the course of dispensing justice in criminal cases the court shall issue sentences, decisions, judgments and rulings.

(2) A judgment by which a criminal case is settled on its merits in a court of first instance is called a sentence.

(3) A judgment pronounced in a court of appeals, cassation, cassation for annulment and a judgment pronounced by a court of appeals and cassation rehearing a case are called decisions.

(4) The Plenum of the Supreme Court of Justice issues judgments.

(5) All the other judgments issued by the courts in the course of trying cases are called rulings.

Article 342. Court Rulings

(1) All the issues arising in the course of trying a case shall be settled by court rulings.

(2) Rulings on preventive, protective and security measures; recusals; denials of competence; case transfers; expert reports and interlocutory rulings shall be issued as separate documents and signed by the judge or, as the case may be, by all the judges on a panel.

(3) Court rulings on other issues shall be included in the transcript of the hearing.

(4) Rulings issued in the course of a case hearing shall be pronounced publicly.

Article 343. Editing Court Judgments

(1) Should only the dispositive part of the judgment be pronounced, it shall be edited integrally no later than 10 days from pronouncement by one of the judges who participated in the case hearing and shall be signed by all the judges on the panel.

(2) Should any of the judges on the panel fail to sign the edited judgment, it shall be signed instead of him/her by the chairperson of the hearing. If the chairperson of the hearing fails to sign the judgment, it shall be signed by the court president. In all cases, an entry shall be made on the judgment specifying the reason that determined a failure to sign.

Chapter II
ACCEPTING A CRIMINAL CASE FOR PROCESSING

Article 344. Assigning Cases Received for Hearings

A case received by the court shall within three days be assigned to a judge or, as the case may be, to a panel of judges by the president or vice-president of the court in a resolution in the manner set at the beginning of the year by assigning case numbers to judges in alphabetical order by their last names. Deviations from this order may be allowed only in the case of the serious illness of the judge assigned the respective case number or in cases related to other justified grounds to be reasoned in the ruling on reassigning the case to another judge. If the

case is assigned to a panel of judges, the president or vice-president of the court shall decide which of the judges on the panel will preside at the hearing.

Article 345. Preliminary Hearing

(1) Within not more than 3 days from the date the case is assigned, the judge or, as the case may be, the panel of judges upon studying the case materials shall set the date for the preliminary hearing which shall start within not more than 20 days from the date of assignment except in cases of flagrant crimes. The preliminary hearing in cases involving juvenile or arrested defendants shall be priorities and shall be conducted in an urgent manner prior to the expiry of the previously set term of arrest.

(2) Should it be impossible to hear the case urgently, the judge shall accept the case for processing without a preliminary hearing and shall undertake the measures necessary to prepare and conduct the case hearing to avoid its postponement.

(3) The preliminary hearing consists of settling of issues related to accepting the case for processing and implies the participation of the parties. The preliminary hearing shall be conducted in line with the general conditions for case hearings provided in Chapter I of this Title which shall duly apply.

(4) The following issues shall be settled in the preliminary hearing:

1) requests and motions and recusals;
2) the list of evidence to be presented by the parties at the hearing;
3) case transfers by competence or, as the case may be, the total or partial termination of the criminal proceeding;
4) suspension of a criminal proceeding;
5) setting the date for the hearing;
6) preventive and protective measures.

[Art.345 amended by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]
[Art.345 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 346. Examining Requests, Motions and Recusals

When settling the requests, motions and recusals addressed by the parties at the preliminary hearing, the parties shall express their opinions on the respective issues. Should the requests, motions or recusals be rejected, they may be addressed once again during the case hearing.

Article 347. Presenting and Examining the List of Evidence

(1) The parties shall be obliged to present at the preliminary hearing the list of evidence they intend to examine during the case hearing, including evidence that was examined during the criminal investigation.

(2) The party presenting to the court the list of evidence shall mandatorily hand a copy thereof to the opposing party. A civil party and the civilly liable party shall be handed the list of evidence related to the civil action.

(3) Hearing the opinions of the present parties, the court shall decide on the pertinence of the evidence proposed in the list and on which of them are to be presented at the case hearing.

However, by hearing a case on the merits the party may repeatedly require the submission of evidence declared impertinent at during the preliminary hearing.

Article 348. Transferring a Case to a Competent Court

Should a case hearing be not within the competence of the court notified, it shall decide in a reasoned ruling to transfer the case to a competent court. Any parties who did not participate in the preliminary hearing shall be advised thereof.

Article 349. Suspending and Resuming a Criminal Proceeding

(1) A criminal proceeding shall be suspended if at the moment the case is received by the court it is established that the defendant suffers from a serious illness that prevents him/her from participating in the hearing of the case.

(2) The court shall order the suspension and resumption of a criminal proceeding in a justified ruling. A criminal proceeding shall be suspended and resumed under the conditions in art. 330 which shall duly apply.

Article 350. Termination of a Criminal Proceeding

(1) Should the grounds provided in art. 332 be established at the preliminary hearing, the court shall terminate the criminal proceeding on the respective case in a reasoned sentence.

(2) In addition to terminating the criminal proceeding, the court shall also decide on the issues specified in art. 285 para. (6).

(3) Copies of the sentence terminating the criminal proceeding shall be handed to the parties and to interested persons who shall be advised about the manner and order for an appeal.

Article 351. Scheduling a Case for Trial

(1) Should there be no grounds to apply the provisions in arts. 348–350, the court shall schedule the case for trial.

(2) By scheduling the case for trial the court shall decide on the following issues:

1) the place, date and time of the case hearing;
2) the procedure for the case trial, i.e., general or special;
3) whether to admit the defense counsel selected by the defendant or, if no defense counsel has been selected, requesting the Coordinator of the Regional Office of the National Council for the Legal Assistance Guaranteed by the State to appoint an attorney;
4) the list of persons whose presence at the case hearing will be secured by the parties;
5) hearing the case in the absence of the defendant, if allowed by law;
6) hearing the case in public or in a closed hearing and the language of the case hearing;
7) any preventive and protective measures to be applied.

(3) Prior to deciding on the issues listed in para. (2) points 1), 2) and 4)–7), the court shall consult the parties present at the preliminary hearing, and on the issues provided in par. (2) point 3) it shall consult the defendant and his/her legal representative.

(4) When scheduling the case for trial, the court shall oblige that the parties ensure the presence in the court on the date set of the persons entered on the lists submitted by them.

(5) Should one of the parties fail to ensure the presence of any of the persons on the list submitted, he/she may file a request that these persons be summoned by the court.

(6) Should the case be sent to court without the defendant's review of the case materials and receipt of a copy of the indictment and should the defendant appear at the preliminary hearing, the court shall decide that these measures are to be performed by the prosecutor.

(7) When scheduling the case for a hearing, the court shall decide to uphold, change, revoke or terminate, as the case may be, any preventive measures in line with the provisions in this Code.

(8) If necessary, the court shall also decide to merge or split cases in line with the law.
[Art.351 amended by Law No. 89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 352. Preliminary Hearing and Issuing a Ruling

(1) The preliminary hearing shall begin by announcing the last and first names of the judge or, as the case may be, of the panel of judges and of the prosecutor and the court secretary. Then the representatives of the defense followed by those of the prosecution shall express their opinions on the issues set forth in arts. 346–351. The chairperson of the hearing may at any time address questions to the parties. Any participant in the hearing shall be entitled to express his/her opinion on the proposals, requests and motions submitted by the parties.

(2) The unfolding of the preliminary hearing shall be entered in the transcript in line with the provisions in art. 336 which shall duly apply. The transcript shall be signed by the chairperson of the hearing and by the secretary.

(3) The court shall settle in a ruling the issues set forth in arts. 346–351.

(4) Should the preliminary hearing be conducted by one judge, he/she may issue the respective ruling directly at the hearing and announce a recess for this purpose and then pronounce it publicly.

(5) Should the preliminary hearing be conducted by a panel of judges, the respective ruling shall be issued in the deliberation room.

(6) The ruling issued at the preliminary hearing shall be final.

Article 353. Other Preparatory Measures for a Case Hearing

(1) The judge or, as the case may be, the chairperson of the panel of judges shall be obliged to take in advance all necessary measures and to give respective instructions so that on the trial date the case hearing is not postponed.

(2) The judge shall also ensure that the list of cases scheduled for trial is prepared and posted in the court in a public place at least three days prior to the trial date set specifying the case number; the last and first names of the judge (judges) hearing the case; the date, time and

place of the hearing; the last and first names of the defendant (defendants); the crime that is the object of the hearing; other data related to the public nature of the hearing and other information ensuring the transparency of the trial.
[Art.353 completed by Law No. 258-XVI dated 29.11.2007, in force as of 22.04.2008]

Chapter III
TRIAL IN THE FIRST INSTANCE

Section 1
Preparatory Part of a Hearing

Article 354. Opening a Hearing

The chairperson of a hearing shall open the hearing on the trial date and announce the criminal case to be tried.

Article 355. Verifying Presence in Court

After calling the roll of the parties and other persons summoned, the secretary shall report on their attendance in court and the reasons for the failure to appear of the absentees.

Article 356. Removing Witnesses from the Courtroom

After calling the roll of witnesses, the chairperson of the hearing shall ask them to leave the courtroom and shall draw their attention to the fact that they may not leave the court without his/her consent. The chairperson shall take measures so that witnesses who have been examined do not communicate with those who have not.

Article 357. Establishing the Identity of the Interpreter/Translator, and Explaining His/Her Rights and Obligations

(1) The chairperson of the hearing shall establish the identity and competence of the interpreter/translator and shall explain his/her rights and obligations in line with the provisions in art. 87.

(2) The interpreter/translator shall be warned over his/her signature about his/her liability for making deliberately false interpretations or translations as per art. 312 of the Criminal Code.

Article 358. Establishing the Identity of the Defendant

(1) The chairperson of the hearing shall establish the identity of the defendant and in particular:

1) the last name, first name and patronymic;
2) the year, month, date and place of birth and citizenship;
3) his/her domicile;
4) his/her occupation and information about his/her military record;
5) his/her family status and information about any persons in his/her care;
6) his/her education;
7) data about any disability;
8) data about any special titles, qualifications, and state distinctions;

9) if he/she speaks the language of the criminal proceeding;
10) if he/she has been under detention or arrest in this case and when;
11) other data about the defendant.

(2) The chairperson of the hearing shall verify if the defendant has been handed information in writing about his/her rights and obligations and a copy of the indictment and if these documents are clear to him/her.

(3) If the case was sent to court under the provisions in art. 297 and the defendant appears at the hearing, he/she shall be handed over a copy of the indictment and shall be given the possibility to review the materials in the case file. Should the defendant request thereafter time to prepare his/her defense, the court shall settle this matter.

Article 359. Establishing the Identity of Other Parties and Verifying Their Awareness of Their Rights and Obligations

(1) The chairperson shall establish the identity of the prosecutor and of the defense counsel and the documents that confirm their status and powers.

(2) The identity of the injured party, civil party, civilly liable party and their representatives shall be established similarly.

(3) The chairperson of the hearing shall verify if the persons mentioned in para. (2) have been handed information about their rights and obligations and if such information is clear to them.

(4) If one of the parties declares that his/her rights and obligations are not clear to him/her, the chairperson shall provide respective explanations.

Article 360. Announcing the Panel Hearing the Case and Settling Recusal Requests

(1) The chairperson of the hearing shall announce his/her last and first names and, as the case may be, the names of the other judges on the panel and those of the prosecutor, the court secretary, experts, the interpreter/translator and specialists if they participate in the trial and shall verify if there are any requests for recusal or if there are any self-recusals.

(2) Requests for recusal or self-recusals shall be resolved in line with the respective provisions of this Code.

Article 361. Solving Matters Related to Participation of the Defense Counsel

(1) The chairperson of the hearing shall announce the last and first names of the defense counsel and establish if the defendant accepts the legal assistance of this defense counsel, if he/she waives defense by replacing the defense counsel or by conducting the defense on his/her own. If the defendant formulates a request, the court shall resolve it in line with the provisions of arts. 69–71.

(2) The chairperson of the hearing shall, at the same time, verify if there are circumstances making the participation of the defense counsel in the criminal proceeding impossible in line with the provisions in art. 72.

Article 362. Settling the Issue of Case Trial in Absence of Any Party or Other Persons Summoned

(1) If any of the parties fails to appear at the hearing, the court, hearing the opinions on this issue of the parties present, shall decide whether to continue the hearing in the manner set out in the respective provisions in Chapter I of this Title.

(2) If any witness, expert or specialist legally summoned fails to appear, the court, hearing the opinions on this issue of the parties present, shall decide to continue the hearing and shall take the necessary measures to ensure their presence, if necessary, or shall decide that the person who did not ensure their presence must ensure it at the next hearing.

Article 363. Establishing the Identity of an Expert and a Specialist and Explaining Their Rights and Obligations

If an expert or a specialist participates in the case trial, the chairperson shall establish his/her identity and competence and explain to him/her his/her rights and obligations provided in arts. 90–91.

Article 364. Formulating and Settling Requests or Motions

(1) The chairperson shall ask each party in the proceeding about any requests or motions.

(2) Any requests or motions formulated shall be reasoned, and if the management of new evidence is requested, the facts and circumstances to be proven, the means by which the evidence may be managed and the location of evidence shall be specified. In regard to witnesses, experts and specialists, their identities and addresses shall be specified if the party cannot ensure their presence in the court.

(3) The court shall settle requests or motions upon hearing the opinions of the other parties about the requirements raised.

(4) The parties may also present and request evidence to be managed in the course of the judicial inquiry.

Section 2
Judicial Inquiry

Article 365. The Order for a Judicial Inquiry

(1) During a judicial inquiry, the evidence presented by the prosecution shall be examined first.

(2) Upon the request of the parties or other participants in the proceeding, the court may change the order for examining evidence if this is necessary for an efficient unfolding of the judicial inquiry. The defendant may request to be heard at the beginning of the examination of evidence or at any stage of the judicial inquiry.

Article 366. Beginning a Judicial Inquiry

(1) The chairperson of the hearing shall announce the beginning of a judicial inquiry. A judicial inquiry shall start with the prosecutor's presentation of the accusation formulated. If a civil action was filed in the criminal proceeding, it shall be presented as well.

(2) If a response to the indictment was filed, the chairperson of the hearing shall bring it to the knowledge of those present.

(3) The chairperson of the hearing shall ask the defendant if the charge filed against him/her is clear and if he/she agrees to make statements and to answer questions. Should the charge be not clear to the defendant, the prosecutor shall provide respective explanations.

(4) Following the actions specified in paras. (1)–(3), the prosecutor shall present for examination the evidence of the prosecution.

Article 367. Hearing the Defendant

(1) If the defendant agrees to be heard, the chairperson of the hearing shall ask about his/her relationship with the injured party and shall suggest that he/she declare everything he/she knows about the crime for which the case was sent to court. The first entitled to address questions shall be the defense counsel and the defense participants in the proceeding followed by the prosecutor and the other prosecution participants in the proceeding.

(2) The chairperson of the hearing and, as the case may be, the other judges on the panel may address questions to the defendant only after the parties address their questions; however, clarifying questions may be addressed by chairperson of the hearing and the judges at any time during the hearing.

(3) Should the criminal case involve several defendants, each of them shall be heard in the presence of the other defendants.

(4) Hearing a defendant in the absence of any other defendant who is participating in the case trial shall be allowed only at the request of the parties based on a reasoned ruling when this is necessary to find the truth. In this case, when the absent defendant returns, he/she shall be informed of the content of the statements made in his/her absence and shall be given the possibility to address questions to the defendant who was heard in his/her absence.

(5) The defendant may be heard whenever necessary during the judicial inquiry and he/she may at any time make additional statements with the permission of the chairperson of the hearing.

(6) The chairperson of the hearing shall reject leading questions and questions unrelated to the case.

Article 368. Reading Out the Statements of the Defendant

(1) The statements of the defendant made during a criminal investigation may be read out, and the audio and video recordings of such statements may be played at the request of the parties in the following instances:

1) when there are essential contradictions between the statements made during the hearing and those made during the criminal investigation;

2) when the case is tried in the absence of the defendant.

(2) The same rule shall apply to reading out the statements of the defendant previously made before the court or the investigative judge if the latter informed him/her about the possibility of their being read out in court.

(3) Playing audio or video recordings without reading out in advance the statements entered in the respective transcript shall not be permitted.

Article 369. Hearing Other Parties

(1) The injured party shall be heard in line with the provisions referring to the hearing of witnesses which shall duly apply. The victim or, as the case may be, the injured party, upon his/her request or on a motion by the prosecutor may be heard in the absence of the defendant who shall be given the possibility to review the statements and to address questions to the person heard.

(2) A civil party and a civilly liable party shall be heard in line with the provisions referring to the hearing of the defendant which shall duly apply.

(3) An injured party may be heard whenever necessary during the judicial inquiry and he/she may at any time make additional statements with the permission of the chairperson of the hearing.
[Art.369 amended by Law No. 184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 370. Hearing Witnesses

(1) Witnesses shall be heard separately and in the absence of the witnesses who have not yet been heard. Witnesses for the prosecution shall be heard first.

(2) Witnesses shall be heard in line with the provisions in arts. 105–110 which shall duly apply. If necessary, a witness at his/her request or on a motion by the prosecutor may be heard in the absence of the defendant who has been removed from the courtroom but who shall be given the possibility to review the statements made and to address questions via his/her defense counsel to the person heard.

(3) The parties in proceeding shall be entitled to address questions to a witness. The first to ask questions shall be the participants in the proceeding of the party that requested the hearing of the witness, followed by the other participants. The chairperson of the hearing and the other judges may address questions to a witness under the conditions in art. 367 para. (2).

(4) Each party may ask additional questions to elucidate and complete the answers provided to the questions of the other parties.

(5) The chairperson may allow a witness who has been heard to leave the courtroom before the completion of the judicial inquiry, however, only after hearing the opinions on this issue of the parties in the proceeding.

(6) A witness whose absence is not justified if a party insists that he/she be heard may be brought to court by force.
[Art.370 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 371. Reading Out in a Hearing Statements of a Witness

(1) The statements of a witness made during a criminal investigation may be read out, and the audio and video recordings of such statements may be played at the request of the parties in the following instances:

1) when there are essential contradictions between the statements made during the hearing and those made during the criminal investigation;

2) when a witness fails to appear at the hearing and his/her absence is justified either by the absolute impossibility to appear in court or by the impossibility to ensure his/her security, provided that the witness had been heard and has confronted the suspect/accused or the witness has been heard in line with arts. 109 and 110.

(2) Playing audio or video recordings without reading out in advance the statements entered in the respective transcript shall not be permitted.

(3) Should a witness exempted by law from testifying based on the provisions in art. 90 para. (11) refuse to testify in the hearing, his/her statements made during the criminal investigation may not be read out in the hearing nor may any audio or video recordings of his /her statements be played.

[Art.371 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 372. Examining Material Evidence

(1) Material evidence submitted by the parties may be examined at any time during a judicial inquiry. Both at the request of one of the parties and on the initiative of the court, material evidence may be presented for examination to the parties, witnesses, experts or specialists. The persons presenting material evidence may draw the attention of the court to various circumstances related to its examination which shall be noted in the transcript of the hearing.

(2) Material evidence that cannot be brought to the hearing may be examined, if necessary, at its location.

Article 373. Examining Documents and Transcripts of Procedural Actions

(1) Documentation on and transcripts of procedural actions proposed by the prosecution shall be examined first, followed by those proposed by the defense.

(2) Transcripts of procedural actions confirming the circumstances and facts established by a search, a seizure, an on-site investigation, a corporal examination, a reconstruction of an event, wiretapping, an examination of correspondence seized, technical and scientific and medical and forensic investigations, expert reports and or by other means of evidence and the documents attached to the case file or presented in the hearing, provided they cover or confirm circumstances important for the case, may be read out in whole or in part.

(3) Documentation on and transcripts of procedural actions shall be read out by the party who requested their examination or by the chairperson of the hearing.

Article 374. Court Orders for Expertise and Hearing an Expert

The court shall order a request for expertise and that an expert be heard in cases and under conditions provided in arts. 142–155.

Article 375. Other Procedural Actions during a Case Trial

Upon the request of the parties and if necessary, the court may perform during the trial under the conditions in this Code other procedural actions to establish the circumstances of the case.

Article 376. Completing a Judicial Inquiry

(1) Following an examination of all the evidence in the case file and of that presented during the hearing, the chairperson of the hearing shall ask the parties if they want to offer any additional explanations or to formulate new requests or, as the case may be, motions to complete the judicial inquiry.

(2) If no new requests or motions are formulated or upon settling those formulated and performing, if necessary, any additional procedural actions, the chairperson of the hearing shall declare that the judicial inquiry is complete.

(3) The chairperson of the hearing shall explain to the parties that they in the course of judicial arguments and the court when issuing the sentence shall be entitled to refer only to the evidence examined in the hearing.

Section 3
Judicial Arguments and the Final Plea of the Defendant

Article 377. Announcement and Order of Judicial Arguments

(1) Upon the completion of the judicial inquiry, the chairperson of the hearing shall announce judicial arguments.

(2) Judicial arguments consist of speeches by the prosecutor, injured party, civil party, civilly liable party, defense counsel and defendant if the defense counsel does not participate in the case or if the defendant asks to speak. Should there be several representatives of the parties, the order of speeches shall be determined by the court.

(3) Should at least one of the persons participating in the arguments request time to prepare for them, the chairperson of the hearing shall announce a recess and specify its duration.

Article 378. Content of Judicial Arguments

(1) The participants in the proceeding shall not be entitled to refer in their speeches to new evidence that was not examined in the course of the judicial inquiry. Should it be necessary to submit new evidence, the participants in the arguments may request the resumption of the judicial inquiry, specifying the circumstances to be additionally examined and the new evidence. Hearing the other parties, the court shall issue a reasoned ruling on admitting or rejecting the respective request or motion.

(2) The court may not limit the arguments to a specific duration; however, the chairperson of the hearing shall be entitled to interrupt the speeches of the participants if they refer to facts exceeding the limits of the case tried.

(3) No recesses shall be allowed between speeches; however, due to justified reasons, the arguments may be interrupted for not more than three days.

Article 379. Reply

After all the participants have spoken, they may speak again and reply to statements made in subsequent speeches. The defense counsel or the defendant, as the case may be, shall have the right to the final reply.

Article 380. Final Plea of the Defendant

(1) Upon the completion of the judicial arguments, the chairperson of the hearing shall let the defendant make his/her final plea.

(2) During the final plea, the defendant may not be asked questions and interrupted, except for cases when he/she refers to circumstances unrelated to the case.

(3) Should the defendant in his/her final plea reveal new facts or circumstances essential for the settlement of the case, the court may decide to resume the judicial inquiry to verify them.

Article 381. Written Conclusions

(1) Upon the completion of the arguments and the final plea, the parties may submit to the court written conclusions on the proposed settlement of the case.

(2) The conclusions proposed by the parties shall not be mandatory for the court.

(3) The written conclusions shall be attached to the transcript.

Section 4
Deliberations and Issuing a Sentence

Article 382. Object of Deliberation

(1) The panel of judges or the judge hearing the case shall first deliberate on the factual and then on the legal aspects of the case.

(2) Deliberations shall be focused on the issues provided in art.385.

Article 383. Resuming a Judicial Inquiry

(1) Should in the course of deliberations the court establish that a certain circumstance needs to be specified for the just settlement of the case, it may resume the judicial inquiry in a reasoned ruling.

(2) By resuming the judicial inquiry, if possible the court may clarify in the same hearing the necessary circumstances or may interrupt the hearing for not more than 10 days after which the parties and interested person shall be summoned.

(3) Upon the completion of an additional judicial inquiry, the court shall hear again the judicial arguments and let the defendant make a final plea.

Article 384. Court Sentence

(1) The court shall decide on the charges filed against the defendant by issuing a sentence of conviction, a sentence of acquittal or a sentence terminating a criminal proceeding.

(2) The sentence shall be issued in the name of the law.

(3) The court sentence shall be legal, grounded and reasoned.

(4) The court shall base its sentence only on the evidence examined during the hearing.

Article 385. Issues to Be Resolved when a Court Issues a Sentence

(1) When issuing a sentence, the court shall examine the following issues in the following sequence:

1) if the act the defendant is accused of was committed;
2) if this act was committed by the defendant;
3) if the act has the elements of a crime and which criminal law applies to it;
4) if the defendant is guilty of the commission of this crime;
5) if the defendant must be punished for the crime he/she committed;
6) if there are any circumstances mitigating or aggravating the liability of the defendant and if so what they are;
7) which punishment is to be set for the defendant considering the recommendations of the social rehabilitation service if such an investigation took place;
8) if the punishment set for the defendant must be or must not be executed by the defendant;
9) the type of penitentiary where a punishment of imprisonment is to be served;
10) if a civil action must be admitted, in whose favor and in what amount;
11) if material damages must be recovered when a civil action is not filed;
12) if the sequestration of goods needs to be cancelled;
13) what actions are to be performed with regard to material evidence;
14) who must be obliged to pay the judicial court expenses and in what amount;
15) if a preventive measure is to be revoked, replaced or applied to the defendant;
16) if medical treatment for alcoholism or drug addiction must be forced on a defendant found guilty of the commission of a crime.

(2) Should the defendant be accused of committing several crimes, the court shall settle the issues specified in para. (1) points 1)–13) for every crime separately.

(3) Should several defendants be accused of committing a crime, the court shall settle the issues specified in para. (1) for each defendant separately.

(4) If, in the course of the criminal investigation or trial of the case, violations of the defendant's rights were established and the person through whose fault these violations were committed is identified, the court shall examine the possibility of reducing the punishment of the defendant as compensation for these violations.

Article 386. Examining Issues on the State of Responsibility of the Defendant

(1) Should, in the course of the criminal investigation or judicial inquiry the issue of the state of responsibility of the defendant be raised, the court shall be obliged to examine this issue once again when issuing the sentence.

(2) Should it be stated that the defendant was in a state of irresponsibility when committing the crime or developed a mental disorder after committing the crime that became grounds for considering him/her irresponsible, the court shall issue a sentence in line with the provisions of Chapter II of Title III of the Special Part of this Code.
[Art.386 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 387. Settling a Civil Action

(1) In addition to a sentence of conviction and assessing if the grounds for and the amount of the damage claimed by a civil party are proved, the court shall, in whole or in part, admit a civil action or reject it.

(2) For a sentence of acquittal, the court shall:

1) reject a civil action if it was established that the incriminating act did not happen or the act was not committed by the defendant;

2) not pronounce on a civil action if the defendant was acquitted due to a lack of the elements of a crime or to one of the circumstances eliminating the criminal nature of the act provided in art. 35 of the Criminal Code.

(3) In exceptional cases when in order to precisely determine the amount of compensation due to a civil party the case trial should be postponed, the court may admit, in principle, a civil action for which the amount of the compensation due shall be decided under civil procedures.

Article 388. Securing a Civil Action and Special Confiscation of Goods

(1) If a civil action is admitted, prior to the sentence becoming final the court may decide on measures to secure this action if such measures have not been previously undertaken.

(2) By pronouncing the sentence implying the special confiscation of the goods of the person convicted, the court shall take measures to secure the confiscation if such measures have not been previously undertaken.

Article 389. Sentence of Conviction

(1) The sentence of conviction shall be issued only provided that following the judicial inquiry the defendant's guilt of the commission of the crime was confirmed by the set of evidence examined by the court.

(2) A sentence of conviction may not be based on assumptions or, exclusively or principally, on the statements of the witnesses made during the criminal investigation and read out by the court in their absence.

(3) The statements of the witnesses made during the criminal investigation may substantiate the sentence of conviction only when considered with other sufficient evidence supporting the charge and provided that in the course of the criminal investigation the witness confronted the suspect/accused or that the witness was heard under the conditions in arts.109 and 110 if the defendant did not participate in the confrontation with this witness during the hearing.

(4) A sentence of conviction shall:

1) set a punishment to be executed;

2) set a punishment and exempt the convicted person from its execution in the case of amnesty as per art. 107 of the Criminal Code and in cases provided in art.89 para. (2) letters a), b), c), e), f) and g) of the Criminal Code;

3) not set a punishment and exempt the person convicted from criminal liability in cases provided in arts. 57 and 58 of the Criminal Code, exempt the person convicted from punishment in the case provided in art. 93 of the Criminal Code or upon the expiry of the limitation period.

(5) When issuing a sentence of conviction and setting a punishment to be executed, the court shall determine the category of the punishment, its term and the beginning of the term of the execution of the punishment.

(6) When issuing the sentence of conviction and exempting the person convicted from punishment or, as the case may be, the sentence of conviction without setting a punishment, the court shall specify the grounds provided by the Criminal Code on which this sentence is issued.

[Art.389 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 390. Sentence of Acquittal

(1) A sentence of acquittal shall be issued if:

1) the existence of the criminal event was not established;

2) the act was not committed by the defendant;

3) the act of the defendant does not have the elements of a crime;

4) the act is not provided in criminal law;

5) there exists one of the circumstances eliminating the criminal nature of the act.

(2) Should a person be acquitted based on para. (1) point 2), the criminal investigative body shall be obliged to continue the criminal investigation to identify the perpetrator.

(3) The sentence of acquittal implies the complete rehabilitation of the defendant.

[Art.390 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 391. Sentence of Termination of the Criminal Proceeding

(1) The sentence of termination of the criminal proceeding shall be issued if:

1) there is no complaint from an injured party, if the complaint was withdrawn or if the parties reconcile;

2) the defendant dies;

3) the defendant has not reached the age to be held criminally liable;
4) there is a final court judgment in regard to the same person for the same act;
5) there is a judgment of a criminal investigative body in regard to the same person for the same act terminating the criminal investigation, discharging the person from the criminal investigation or dismissing the criminal case;
6) there are other circumstances eliminating or conditioning the initiation of a criminal investigation and subjecting a person to criminal liability;
7) the circumstances provided in arts. 54–56 of the Criminal Code exist.

(2) In the case provided in art. 332 para. (2), the court shall terminate the criminal proceeding and apply the administrative sanction provided in the Code for Contraventions.

Article 392. Preparing a Sentence

(1) Upon examining the issues specified in arts. 385–388, the court shall proceed to prepare the sentence. A sentence consists of introductory, descriptive and dispositive parts.

(2) The sentence shall be prepared in the language of the case trial by one of the judges who participated in the issuance thereof.

(3) The sentence shall be signed by all the judges who participated in the issuance thereof. A judge having a dissenting opinion shall also sign the sentence.

Article 393. Introductory Part of the Sentence

The introductory part of the sentence shall specify:
1) that the sentence was pronounced in the name of the law;
2) the date and place of issuance of the sentence;
3) the name of the court that issued the sentence, name of the judge or, as the case may be, of the judges on the panel and those of the court secretary, interpreter/translator, prosecutor and defense counsel;
4) if the hearing was public or closed;
5) data on the identity of the defendant specified in art. 358 para. (1);
6) the criminal law providing for the crime the defendant is charged with committing.

Article 394. Descriptive Part of a Sentence

(1) The descriptive part of a sentence of conviction shall include:
1) a description of the criminal act considered as proven specifying the place, time and manner of its commission, the form and degree of guilt and the motives for and consequences of the crime;
2) evidence substantiating the conclusions of the court and the reasons for which the court rejected other evidence;
3) any circumstances mitigating or aggravating criminal liability;
4) if a part of the accusation is construed unjustified - the grounds for it;
5) the legal qualification of the actions of the defendant, the reasons for changing the accusation, if any;
6) a remark on recidivism.

(2) The court shall be also obliged to justify:

1) punishment by imprisonment if criminal law provides for other categories of punishment;

2) a punishment milder than the one provided by law;

3) a conviction with a conditional suspension of the execution of the punishment;

4) the settlement of the issues related to a conviction with a conditional suspension of the execution of the punishment or other categories of exemption from criminal punishment set forth in art. 89 of the Criminal Code.

(3) The descriptive part of a sentence of acquittal shall include:

1) a description of the charge based on which the case involving the defendant was sent to court;

2) a description of the case circumstances established by the court and the grounds for acquitting the defendant specifying the reasons for which the court rejected evidence supporting the prosecution. Any wording in the sentence of acquittal questioning the innocence of the acquitted person shall not be admitted.

(4) The descriptive part of a sentence to terminate a criminal proceeding shall include a description of and the motivation for the termination of the criminal proceeding.

(5) The descriptive part of a sentence of conviction or acquittal or termination of a criminal proceeding shall include the reasons grounding the court's judgment on a civil action or on the recovery of the material damage caused by the crime.

Article 395. Dispositive Part of a Sentence of Conviction

(1) The dispositive part of a sentence of conviction shall include:

1) the last name, first name and patronymic of the defendant;

2) the statement that the defendant is guilty of the commission of the crime provided in criminal law;

3) the category and the term of the punishment applied to the defendant for every crime construed as proven, the final punishment to be executed; the category of the penitentiary where a person sentenced to imprisonment shall serve the punishment; the date when the execution of the punishment starts; the duration of the probation period if the person is convicted with conditional suspension of the execution of the punishment and who is obliged to supervise the person convicted with a conditional suspension of the execution of the punishment. Should the court find the defendant guilty but exempt him/her from punishment based on the respective provisions of the Criminal Code, it shall mention this fact in the dispositive part of the sentence;

4) a decision on computing the term of detention, preventive arrest or house arrest if the defendant was under arrest prior to sentencing;

5) a decision on any preventive measure to be applied to the defendant until the sentence becomes effective;

6) the obligations of a person convicted with a conditional suspension of the execution of the punishment.

(2) Should a defendant be accused based on several articles of criminal law, the dispositive part of the sentence shall refer to the specific articles based on which he/she was acquitted and based on which he/she was convicted.

(3) In all cases, the sentence shall be worded so that in executing it there is no doubt about the category and term of the punishment set by the court.

(4) In cases provided in art. 66 of the Criminal Code, the dispositive part of the sentence shall also include a decision on rescinding any military rank, special titles, qualifications (classifications), degrees or state distinctions of the defendant.

(5) If a foreign citizen or a stateless person with a permanent residence in another state is convicted, the dispositive part of the sentence shall include an explanation of the right to request the transfer of that person to the country of residence.

Article 396. The Dispositive Part of a Sentence of Acquittal or to Terminate a Criminal Proceeding

The dispositive part of a sentence of acquittal or to terminate a criminal proceeding shall include:

1) the last name, first name and patronymic of the defendant;

2) the decision to acquit the defendant or to terminate the criminal proceeding and the reasons substantiating the acquittal or the termination;

3) the decision to revoke a preventive measure, if any;

4) the decision to revoke measures securing a civil action or an eventual special confiscation of goods, if any.

Article 396[1]. Returning a Criminal Case File

Should the court pronounce a sentence of acquittal because the act was not committed by the defendant, at the request of the prosecutor the criminal case file shall be returned to the prosecutor who shall resume the criminal investigation to identify the perpetrator of the crime.
[Art.396[1] introduced by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 397. Other Issues to Be Mentioned in the Dispositive Part of a Sentence

The dispositive part of a sentence of conviction, acquittal or termination of a criminal proceeding, in addition to the issues listed in arts. 395 and 396 if necessary shall also include:

1) any decision on a civil action filed or any decision pronounced by the court ex officio on the recovery of damages;

2) any decision on the special confiscation of goods;

3) any decision on material evidence;

4) any decision on protective measures;

5) an order on apportioning the judicial expenses;

6) an order on the procedure for and term of appeal or, as the case may be, cassation of the sentence.

Article 398. Releasing an Arrested Defendant

(1) Should the defendant be acquitted or exempted from punishment, or exempted from the execution of the punishment, or convicted with a punishment not depriving him/her of liberty, or in whose regard the criminal proceeding was terminated, and provided that the defendant is under arrest, the court shall release him/her immediately in the courtroom.

(2) If sentenced to imprisonment with a conditional suspension of the execution of the punishment, the court shall release the defendant from custody.

Article 399. Handing a Copy of the Sentence

(1) Within not more than three days from the pronouncement of the sentence or its dispositive part, an arrested defendant shall be handed a copy of the sentence or of its dispositive part.

(2) If edited, the copy of the edited sentence shall be handed immediately after signature to an arrested defendant while the other parties shall be notified in writing about the signing of the edited sentence and, upon their request, shall be handed a copy thereof.

(3) Should the sentence or its dispositive part be prepared in a language the defendant does not understand, he/she shall be handed a written translation of the sentence in his/her native language or any other language he/she speaks.
[Art.399 amended by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]

Chapter IV
ORDINARY MEANS OF APPEAL

Section 1
Appeal

Article 400. Judgments Subject to Appeal

(1) Sentences may be subject to appeal for a *de novo* hearing of the factual and legal aspects of the case except for:

1) sentences pronounced by courts on crimes for the commission of which the law exclusively provides for a punishment not depriving liberty;

2) sentences pronounced by the military court on crimes for the commission of which the law exclusively provides for a punishment not depriving liberty;

3) sentences pronounced by the courts of appeal and the Supreme Court of Justice;

4) other sentences for which the law does not provides for this means of appeal.

(2) Rulings issued by courts in the first instance may be subject to appeal only in conjunction with the sentence, except for cases when such rulings may be appealed separately in line with the law.

(3) An appeal against a sentence shall be construed as being filed against the rulings even if they were issued after the sentence was pronounced.
[Art.400 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 401. Persons Entitled to Request an Appeal

(1) An appeal may be filed by:

1) the prosecutor on the criminal and civil aspects of the case;

2) the defendant on the criminal and civil aspects of the case. The sentences of acquittal or of termination of criminal proceedings may be subject to appeal as to the grounds for them;

3) the injured party on the criminal aspect of the case;

4) a civil party and a civilly liable party on the civil aspects of the case;

5) witnesses, experts, interpreters/translators and defense counsels on the judicial expenses due to them;

6) any person whose legal interests were injured by a measure or an act of the court.

(2) An appeal may be filed on behalf of the persons specified in para. (1) points 2)–4) also by their defense counsels or legal representatives.

[Art.401 amended by Law No. 114-XVI dated 22.05.2008, in force as of 10.06.2008]

[The provision "as to the criminal aspects of the case when the criminal proceeding is initiated only based on his/her complaint in line with the law" of point 3, par. 1, art. 401, is declared unconstitutional pursuant to the Decision of the Constitutional Court No. 9 dated 20.05.2008, in force as of 20.05.2008,]

Article 402. Timeframe for Filing an Appeal

(1) An appeal shall be filed within 15 days from the pronouncement of the integral sentence or, if a request is filed in line with art. 399 para. (2), from the date the copy of the edited sentence was distributed unless the law provides otherwise.

(2) For an arrested defendant, the timeframe for appeal shall start from the time he/she is handed a copy of the edited sentence and for parties absent from the hearing when the sentence was pronounced from the date of written notification of the edited sentence.

(3) In cases provided in art. 401 para. (1) points 5) and 6), the right to appeal may be exercised immediately after the pronouncement of the ruling by which the court decided on judicial expenses or on any other measure, however, no later than within 15 days of the pronouncement of the sentence by which the case was solved. An appeal shall be heard only when a case is solved on its merits, except for cases in which the proceedings have been suspended.

(4) Should the prosecutor who participated in the hearing of the case or the injured party file an appeal in due time to the prejudice of the defendant, the prosecutor participating in the hearing of the appeal may file an additional appeal within 15 days from the date of receipt by the party of the copy of the appeal filed in which he/she may invoke additional reasons for an appeal.

(5) Should the defendant file an appeal in due time and replace his/her defense counsel, the new defense counsel may file an additional appeal for the defendant within 15 days from the date of receipt by the party of the copy of the appeal filed in which he/she may invoke additional reasons for an appeal.

(6) Should additional appeals be filed in line with paras. (4) and (5), their copies shall be handed to the parties, and the time necessary to prepare for hearing the appeals shall be provided.

[Art.402 amended by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]

[Art.402 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 403. Restoring the Timeframe for Filing an Appeal

(1) An appeal filed outside the timeframe stipulated by law shall be construed as filed in due time if the court has established that the delay was caused for good reasons and the appeal was filed no later than within 15 days from the beginning of the execution of the punishment or the collection of material damages.

(2) The court may suspend the execution of the sentence until deciding on restoring the timeframe for filing an appeal.

Article 404. Appeal outside the Timeframe

(1) A participant in the proceeding who was absent both at the case hearing and the pronouncement of the sentence and who was not informed about the issuance or editing of the sentence may file an appeal outside the timeframe, however, no later than within 15 days from the beginning of the execution of the punishment or the collection of material damages.

(2) The appeal filed outside the timeframe shall not suspend the execution of the sentence.

(3) A court of appeals may suspend the execution of a sentence appealed.

Article 405. Filing an Appeal

(1) An appeal shall be filed by a written request.

(2) The request for an appeal shall include:

1) the name of the court to which the appeal is filed;

2) the last and first names of the appellant, his/her procedural capacity and address;

3) the name of the court that issued the sentence, the date of the sentence and the last and first names of the defendant is whose regard the sentence is appealed;

4) the content and reasons for requesting an appeal;

5) the evidence and means by which the evidence may be managed if the need for new evidence is invoked. Only the prosecutor and the defense attorney who participated in the case hearing in the first instance may invoke the management of new evidence. The parties who participated in the case hearing in the first instance may invoke the management of new evidence only if they were unaware of such evidence during the case hearing or if the court of first instance rejected a request to manage such evidence;

6) the date of the appeal and the signature of the appellant;

7) a list of documents attached to the appeal request.

(3) If a person cannot sign the request for an appeal, it shall be validated by a judge from the court the judgment of which is appealed. The request may be validated also by the mayor of the locality of the appellant's domicile.

(4) A request for an appeal shall be filed with the court the sentence of which is appealed and shall be accompanied by a number of copies equal to the number of participants in the proceeding. The arrestee may file a request for an appeal with the administration of the place of detention without attaching any copies thereto.

(5) Upon the expiry of the timeframe set for an appeal, the court that issued the sentence shall send within five days the criminal case file, the request for appeal and the copies thereof to a court of appeals. The parties shall be notified thereof.

Article 406. Waiving Appeal

(1) After the sentence is pronounced and prior to the expiry of the timeframe for filing an appeal, the parties may expressly waive the right to appeal.

(2) A waiver of the right to appeal may be reviewed within the timeframe for filing an appeal.

(3) A waiver of the right to appeal or a review of a waiver may be performed personally by the party or via a special attorney.

Article 407. Withdrawing an Appeal

(1) Prior to the beginning of a judicial inquiry in a court of appeals, any of the parties may withdraw the appeal they filed. The appellant shall withdraw the appeal.

(2) An appeal filed by the prosecutor may be withdrawn only by a higher-level prosecutor.

(3) The court of appeals shall terminate appeal proceedings if the appeal is withdrawn.

Article 408. Suspension Effect of Appeal

An appeal filed in due time shall suspend the execution of the punishment in terms of both the criminal and civil aspects of the case, unless the law provides otherwise.

Article 409. Devolution Effect of Appeal and Its Limits

(1) The court of appeals shall hear an appeal only in regard to the person who filed it and the person to whom the appeal request refers and only in correlation with the capacity of the appellant in the proceeding.

(2) Within the limits of the provisions in para. (1), the court of appeals shall be obliged, in addition to the grounds invoked and the requests formulated by the appellant, to examine the factual and legal aspects of the case, however, not in a manner that exacerbates the situation of the appellant.

Article 410. Non-exacerbation of the Situation of a Person Filing Appeal

(1) When settling a case, a court of appeals may not exacerbate the situation of the person who filed the appeal.

(2) If the appeal is filed by the prosecutor in favor of a party, the court of appeals may not exacerbate the situation of this party.

Article 411. Extensive Effect of Appeal

A court of appeals shall examine the case also in regard to the persons who did not file the appeal or to whom it does not refer and shall have the right to decide in their regard without exacerbating the situations of these parties.

Article 412. Assigning Cases on Appeal, Setting the Date for Hearing an Appeal and the Presence of Parties

(1) Upon receiving cases on appeal, the president of the court of appeals shall assign the cases in the manner provided in art. 344.

(2) The chairperson of the panel of judges to which the case was assigned shall set within up to 10 days from the date of assignment the date for hearing the appeal and if necessary shall set the date of a preliminary hearing conducted in line with the provisions in art. 345.

(3) For hearing an appeal, the parties shall be summoned and copies of the appeal shall be distributed.

(4) The appeal shall be heard in the presence of the defendant if he/she is under arrest except for the case provided in art. 321 para. (2) point 2).

(5) The failure of the parties legally summoned to appear in the court of appeals shall not prevent the hearing of the case.

(6) If necessary, the court of appeals may declare the presence of the parties mandatory and may undertake corresponding measures to ensure their presence.

(7) When hearing an appeal, the participation of the prosecutor and the defense counsel, if required in the interests of justice, shall be mandatory. An appeal may be heard in the unjustified absence of the defense counsel to the extent to which the right to defense is not violated.
[Art.412 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 413. Procedure for Hearing an Appeal

(1) The chairperson of the hearing shall announce the case to be heard and shall verify the presence of the parties and then shall announce the last and first names of the judges on the panel and of the prosecutor, court secretary, interpreter/translator, if any, and the defense counsel and shall inquire about any requests for recusal. Thereafter, the chairperson of the hearing shall verify if the parties present have made other requests or motions on which the court of appeals shall issue a ruling.

(2) The chairperson of the hearing shall give the floor to the appellant, the person against whom the appeal request was filed, the defense counsel and their representatives, and then to the prosecutor. If the appeal of the prosecutor is among the appeal requests, the prosecutor shall speak first.

(3) Should the parties invoke the need to manage new evidence, they shall specify the evidence and the means by which they may be managed, and the circumstances that prevented their submission in first instance.

(4) The parties shall be entitled to reply on new issues arisen in the course of making arguments.

(5) The defendant shall be the last to speak.

(6) A transcript of the hearing shall be prepared in line with the provisions in art. 336.

Article 414. Hearing an Appeal

(1) When hearing an appeal, the court of appeals shall verify the legality and validity of the judgment appealed based on the evidence examined by the court of first instance and the case file materials and any other new evidence presented to the court of appeals and shall additionally examine the evidence managed by the court of first instance.

(2) The court of appeals may make a new evaluation of the evidence in the case file and, upon the request of the parties, may manage any new evidence deemed necessary.

(3) The court of appeals shall be obliged to rule on all the reasons invoked for the appeal.

(4) Should the parties report a violation of the reasonable timeframe for hearing a case in the court of first instance, the court of appeals shall rule on this violation of the timeframe as well.
[Art.414 completed by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]

Article 415. Decision of the Court of Appeals

(1) When hearing an appeal under appeal procedures, the court of appeals shall issue one of the following decisions:

1) reject the appeal and uphold the judgment if:
   a) the appeal was filed outside the timeframe except for cases provided in art. 402;
   b) the appeal is inadmissible;
   c) the appeal is groundless;

2) admit the appeal and repeal the sentence in whole or in part, including ex officio, based on art. 409 para. (2), rehear the case and pronounce a new judgment in the manner set for a court of first instance.

(2) A sentence may be repealed only with respect to certain facts or persons or only on the criminal or civil aspects of the case provided that it does not prevent a just settlement of the case.

(3) The decision of the court of appeals shall be subject to execution as of the moment it is issued.

Article 416. Complementary Issues

When hearing an appeal, if necessary, the court of appeals shall decide to resume the judicial inquiry, to apply provisions for the recovery of damage, on preventive measures, judicial expenses and any other expenses on which the complete settlement of an appeal depends.

Article 417. Contents of a Decision by a Court of Appeals

(1) A decision of a court of appeals shall indicate:

1) the date and place of its pronouncement;
2) the name of the court of appeals;
3) the last and first names of the panel of judges and of the prosecutor, court secretary, defense counsel and interpreter/translator if participating in the hearing;
4) the last and first names of the appellant and his/her procedural capacity;

5) data on the identity of the person convicted or acquitted by the court of first instance specified in art. 358 para. (1);

6) the act established by the court of first instance and the contents of the dispositive part of the sentence;

7) the merits of the appeal;

8) the factual and legal grounds that led to, as the case may be, rejecting or accepting the appeal, and the reasons for adopting the respective decision;

9) one of the decisions provided in art. 415;

10) an indication that the decision is enforceable and may be subject to cassation and the timeframe provided for this means of appeal.

(2) Should the defendant be under arrest, the decision shall also indicate the time to be included in the term of punishment.

(3) Should there be grounds provided in art. 218, the court of appeals shall pronounce an interlocutory decision.

Article 418. Issuing a Decision by the Court of Appeals

(1) Deliberations and the pronouncement of the decision shall take place, as a rule, upon the completion of the arguments, but for valid reasons they may be postponed for 10 days at the most.

(2) Deliberations shall be conducted in line with the provisions in art. 339.

(3) The results of deliberations shall be entered into the dispositive part of the decision signed by all the judges on the panel. Then the decision shall be publicly pronounced by the chairperson of the hearing or by one of the judges on the panel assisted by the court secretary.

(4) The decision shall be edited by one of the judges who participated in the hearing of the appeal within not more than 10 days from the pronouncement and shall be signed by all the judges on the panel.

(5) If the decision is edited, the rules for its handing provided in art. 399 shall apply.

(6) Following editing, the court of appeals shall within not more than five days return the criminal case to the court of first instance for execution. The parties shall be notified thereof.

Article 419. Procedure for Rehearing a Case

A case shall be reheard by the court of appeals in line with the general rules applied to hearing cases in the first instance.

Section 2
Ordinary Cassation

§ 1. Cassation against Judgments of the Courts of Appeals

Article 420. Judgments Subject to Cassation

(1) Decisions pronounced by the courts of appeals may be subject to cassation.

(2) The rulings of a court of appeals may be subject to cassation only in conjunction with the decision appealed except for cases when rulings may be subject to cassation separately.

(3) Cassation filed against a decision of a court of appeals shall be construed as filed against its rulings, even if these rulings were issued after the decision on the appeal was pronounced.

(4) If the persons specified in art. 401 did not request the remedy of appeal or withdrew an appeal, and if the law provides for this means of appeal, the sentences may not be subject to cassation. The person who did not request an appeal may file a cassation against a decision of a court of appeals that exacerbated his/her situation. A prosecutor who did not file an appeal may file a cassation against the decision by which an appeal filed by the defense was admitted.

Article 421. Persons Entitled to Request Cassation

The prosecutor and the persons specified in art. 401 may request cassation.
[Art.421 amended by Law No. 248-XVI dated 21.10.05, in force as of 04.11.05]
[The words "through mediation of the attorney" and the second sentence of art. 421 are declared unconstitutional pursuant to the Decision of the Constitutional Court No. 16 dated 19.07.05, in force as of 19.07.05]

Article 422. Timeframe for Filing a Cassation

A cassation shall be filed within two months from the date a decision is pronounced, unless the law provides otherwise, and if the decision is edited within two months from the written notification to the parties about the signing of the edited decision by all the judges on the panel.

Article 423. Withdrawing a Request for Cassation

The persons specified in art. 421 may withdraw a request for cassation under art. 407 which shall duly apply.

Article 424. Devolution Effect of Cassation and Its Limits

(1) The court of cassation shall hear cassation requests only in regard to the person to whom the cassation request refers and only in connection with his/her capacity in the proceeding.

(2) The court of cassation shall hear a case only on the grounds specified in art. 427, being entitled to hear also based on non-invoked grounds without exacerbating the situation the convicted person.
[Art.424 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 425. Non-exacerbation of the Situation of a Person Filing Cassation

When settling a case, the court of cassation may not exacerbate the situation of the person in whose favor the cassation was filed.

Article 426. Extensive Effect of Cassation and Its Limits

The court of cassation shall hear a case extending to the persons in whose regard the cassation was not filed or to whom the cassation does not refer and shall be entitled to decide in their regard as well without exacerbating their situations if the admissibility of cassation was decided.

Article 427. Grounds for Filing Cassation

(1) The judgments of the courts of appeals may be subject to cassation to address errors of law made by the courts of first instance and courts of appeals based on the following grounds:

1) provisions on material competence and the competence on the capacity of the person were not observed;

2) the court was not composed in line with the law or the provisions in arts. 30, 31 and 33 were violated;

3) the court hearing was not public unless the law stipulates otherwise;

4) the case was heard in the absence of the prosecutor, defendant, defense counsel, the interpreter/translator if their participation is mandatory by law;

5) the case was heard in the first instance or on appeal without legally summoning any of the parties or, if legally summoned, a party failed to appear and to notify the court about the failure;

6) the court of appeals did not rule on all the reasons invoked in the appeal or the judgment appealed did not include all the reasons on which the decision was based or the reasoning of the decision contradicts the dispositive part of the judgment or it is unclearly written or the dispositive part of an edited judgment does not comply with the disposition pronounced after deliberations;

7) the court admitted a means of appeal not provided by law or the appeal was filed with delay;

8) there are no elements of a crime or the court pronounced a conviction for an act other than the one committed by the person charged except for cases of the legal requalification of his/her actions based on a milder law;

9) the defendant was convicted for an act not provided in criminal law;

10) the punishments were applied within limits other than the ones provided by law;

11) a final sentence was previously issued for a conviction for the same act or there is a circumstance that eliminates criminal liability or the punishment was eliminated by a new law or cancelled by an act of amnesty, the defendant has died or the parties have reconciled in cases provided by law;

12) the act committed was given the wrong legal qualification;

13) a criminal law more favorable to the convict has been issued;

14) the Constitutional Court acknowledged the provision of the law applied in the respective case as unconstitutional;

15) an international court determined by a judgment in a different case a violation on the national level of human rights and freedoms that may be redressed in this case as well;

16) the legal norm applied in the judgment appealed contradicts a judgment on the application of the same norm issued by the Supreme Court of Justice.

(2) The grounds specified in para. (1) may be invoked in cassation only if they were invoked in the appeal or if the violation occurred in the court of appeals.

[Art.427 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 428. Courts Competent to Hear Cassation

Requests for cassation filed against the decisions of a court of appeals shall be heard by the Criminal College of the Supreme Court of Justice.

Article 429. Filing a Cassation

(1) Cassation shall be filed by the persons specified in art. 421 and shall be reasoned.

(2) A request for cassation shall be filed with the court of cassation and shall be accompanied by a number of copies equal to the number of participants in the proceeding.
[Art.429 amended by Law No. 35-XVI dated 24.02.06, in force as of 17.03.06]

Article 430. Content of a Request for Cassation

A request for cassation shall include:

1) the name of the court with which the request for cassation is filed;

2) the last and first names of the cassation appellant, his/her procedural capacity or the person whose interests he/she represents and his/her address;

3) the name of the court that pronounced the sentence, the date of the sentence, the last and first names of the defendant in whose regard the court judgment is appealed, the act established and the dispositive part of the sentence, the person who filed the appeal and the reasons invoked for appeal;

4) the name of the court that issued the decision on appeal, the date of the decision of the court of appeals, the dispositive part of the decision of the court of appeals and the arguments admitting or rejecting the appeal;

5) the content and reasons for cassation justifying the illegality of the judgment appealed and the requests of the cassation appellant specifying the grounds provided in art. 427 and the essence of legal issues of general importance addressed in the respective case;

6) suggestions for the expected judgment. Although these suggestions are to be mandatorily formulated by the cassation appellant, they shall not influence the judgment of the Supreme Court of Justice;

7) date of cassation and signature of the cassation appellant.

Article 431. Preparatory Procedural Acts of the Court of Cassation

(1) Upon receipt of a request, the court of cassation shall perform the following preparatory procedural acts:

1) request the case file from the respective court;

2) appoint a judge to prepare the case for hearing;

3) set a timeframe for a report. The timeframe for preparing the report may not exceed three months in cases involving juvenile defendants or detainees under arrest and six months in other cases.

(2) The reporting judge shall verify that the request for cassation meets form and content requirements and if the grounds invoked comply with the provisions of the law and shall indicate the jurisprudence on the legal issues applied to settle the appealed judgment.
[Art.431 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 432. Admissibility of Cassation in Principle

(1) The court of cassation shall examine in principle the admissibility of a request for cassation filed against the judgment of a court of appeals in the council room and based on the case file materials, during which the parties shall not be summoned.

(2) A panel of three judges shall unanimously decide in a reasoned decision on the inadmissibility of the request filed if it is established that:

1) the request for cassation does not meet the form and content requirements provided in arts. 429 and 430;

2) the request for cassation is filed outside the timeframe;

3) the grounds invoked by the cassation appellant do not comply with the grounds listed in art. 427;

4) the request for cassation is obviously unjustified;

5) the request for cassation does not address legal issues of general importance for jurisprudence.

(3) A decision on inadmissibility of a request for cassation shall be irrevocable and shall be communicated to the parties.

(4) Should the request for cassation meet the form and content requirements and should the grounds invoked comply with the ones provided by law and substantiate a serious violation of a person's rights and should the case be of a special interest to jurisprudence and should one judge on the panel of judges disagree that the request is inadmissible, the panel of three judges shall issue a ruling and transmit the request for hearing to the Greater College of the Supreme Court of Justice consisting of five judges.

(5) The chairperson of the Greater College shall set a date for hearing the request for cassation and shall order that the parties in the proceeding be notified thereof and of the essence of the request. The prosecutor and the attorneys shall be summoned and sent copies of the cassation.
[Art.432 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 433. Procedure for a Hearing on Cassation

(1) The prosecutor and the persons specified in art. 401 whose interests are affected by the arguments invoked in the request for cassation shall participate in the hearing on cassation.

(2) The chairperson of the hearing shall announce the case for which the request for cassation was filed, the names of the judges on the panel and those of the prosecutor, attorneys, and interpreter/translator if they participate in the hearing and shall check on any recusal requests.

(3) The cassation appellant shall speak first followed by other participants in the hearing. If a request for cassation from the prosecutor is among those filed, he/she shall speak first. The speeches may not exceed the limits of the arguments invoked in the request for cassation.

(4) The parties shall be entitled to reply to issues arising in the course of the arguments.
[Art.433 amended by Law No. 248-XVI dated 21.10.05, in force as of 04.11.05]
[Par. 1 of art. 433 is declared unconstitutional pursuant to the Decision of the Constitutional Court No. 16 dated 19.07.05, in force as of 19.07.05]

Article 434. Hearing a Cassation

When hearing a cassation filed against a decision of a court of appeals, the Greater College of the Supreme Court of Justice shall verify the legality of the judgment appealed based on the case file materials and shall rule on all the reasons invoked for the cassation.
[Art.434 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 435. Decision of the Court of Cassation

(1) Upon hearing a cassation, the court shall issue one of the following decisions:
1) to reject the cassation as inadmissible and uphold the judgment appealed;
2) to admit the cassation, to repeal, in whole or in part, the judgment appealed making one of the following decisions:
a) to uphold the judgment in the first instance if the appeal was admitted by mistake;
b) to acquit the defendant or to terminate the criminal proceeding in cases provided by this Code;
c) to rehear the case and to pronounce a new judgment if it does not exacerbate the situation of the convicted person, or to order that the case be reheard by the court of appeals if a judicial error cannot be corrected by the court of cassation.

(2) When settling a cassation, the court shall also settle the issues specified in art. 414 para. (4) and art. 416 which shall duly apply.

(3) decision shall be prepared and issued in line with the provisions of art.417 and 418, which shall duly apply.
[Art.435 amended by Law No. 44-XVI dated 06.03.2008, in force as of 15.04.2008]
[Art.435 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 436. Procedure for Rehearing a Case and Its Limits

(1) The procedure for rehearing a case after appealing a judgment in cassation shall comply with the general rules of a case hearing.

(2) The instructions of the court of cassation shall be mandatory for the court rehearing the case to the extent to which the factual situation remains unchanged by settling the cassation.

(3) When a judgment is appealed in cassation only with regard to certain facts or persons or only on the criminal or civil aspects of the case, the court rehearing the case shall pronounce within the limits the judgment was appealed in cassation.

(4) When rehearing a case it is prohibited to apply more severe punishments or a law on a more serious crime except for cases when the initial judgment was appealed in cassation based on the request for cassation filed by the prosecutor or in favor of the injured party due to the fact that the set punishment was too mild or based on the request for cassation of the prosecutor who requested application of a law on a more serious crime, and if when rehearing the case in the court of appeals the prosecutor files a new and a more serious charge in line with art. 326.

§ 2. Cassation against Court Judgments for Which the Remedy of Appeal is Not Provided

Article 437. Judgments Subject to Cassation

(1) Subject to cassation are:

1) sentences pronounced by courts for minor crimes for the commission of which the law exclusively provides for a punishment not depriving liberty;

2) sentences pronounced by courts of appeals;

3) sentences pronounced by the Supreme Court of Justice;

4) other criminal judgments for which the law provides for this means of appeal.

(2) Rulings may be appealed in cassation only in conjunction with the sentence, except for cases when they may be appealed in cassation separately in line with the law.

(3) A cassation filed against a sentence shall be construed as filed against the rulings, even if they were issued after the appealed judgment was pronounced.

Article 438. Persons Entitled to Request Cassation

A cassation against the judgments for which the law provides for this means of appeal may be filed by the persons specified in art. 401.

Article 439. Timeframe for Filing a Cassation

(1) A cassation against judgments for which the law does not provide for the remedy of appeal may be filed within 15 days from the date the judgment was pronounced or if the judgment was edited -within 15 days from the written notification of the signing of the edited judgment by all the judges on the panel.

(2) The date when the timeframe for filing a cassation starts, restoring the timeframe for filing a cassation, filing a cassation outside the timeframe and withdrawing a cassation shall be regulated by the provisions in arts. 402–407 which shall duly apply.

Article 440. Suspension Effect of Cassation

Cassations filed in due time against court judgments for which the remedy of appeal is not provided shall suspend the execution of both the criminal and civil aspects of the case unless the law provides otherwise.

Article 441. Devolution Effect of Cassation and Its Limits

(1) The court of cassation shall hear requests for cassation only with regard to the person to whom the request refers and only in connection with his/her capacity in the proceeding.

(2) The court of cassation shall hear the case within the limits of the grounds specified in art. 444. It shall, however, be obliged to examine, in addition to the grounds invoked and the requests formulated by the cassation appellant, the entire case under all aspects without exacerbating the situation of the party in whose favor the cassation was filed.

Article 442. Non-exacerbation of the Situation of a Person Filing Cassation

When settling the case, the court of cassation may not exacerbate the situation of the person in whose favor the cassation was filed.

Article 443. Extensive Effect of Cassation and Its Limits

The court of cassation shall extend the case to the persons in whose regard the request for cassation was not filed or to whom the cassation does not refer, and shall be entitled to decide in their regard as well without exacerbating their situations.

Article 444. Grounds for Filing a Cassation

(1) Court judgments may be subject to cassation to address errors of law made by a court of first instance if:

1) provisions on material competence and the competence on the capacity of the person were not observed;

2) the court was not composed in line with the law or if the provisions in arts. 30, 31 and 33 were violated;

3) the court hearing was not public unless the law stipulates otherwise;

4) the case was heard in absence of the prosecutor, defendant, defense counsel, interpreter/translator if their participation is mandatory by law;

5) the case was heard in the first instance without legally summoning any of the parties or, if legally summoned, any of the parties failed to appear and to notify the court of the reasons for their failure;

6) the judgment appealed does not cover all the reasons on which the decision is based or the reasoning for the decision contradicts the dispositive part of the judgment or it is unclearly written or the dispositive part of an edited judgment does not comply with the disposition pronounced after the deliberations;

7) there are no elements of a crime or the court pronounced a conviction for an act other than the one committed by the person convicted except in cases of legal requalification of his/her actions based on a milder law;

8) the defendant was convicted for an act not provided in criminal law;

9) the punishments were applied within limits other than the ones provided by law or were assigned by mistake in correlation with the provisions in Chapter VII of the General Part of the Criminal Code;

10) a final sentence was previously issued for the convicted person for the same act or a circumstance exists that eliminates criminal liability or the punishment was eliminated by a new law or cancelled by an act of amnesty, the defendant or the parties have reconciled as provided by law;

11) the defendant was acquitted by mistake due to the fact that the act committed by him/her is not provided in criminal law, or the criminal proceeding was terminated by mistake due to the fact that there was a final judgment for the same act or a circumstance existed that eliminates criminal liability or the punishment was eliminated by a new law or cancelled by an act of amnesty or the defendant deceased;

12) the act committed was given the wrong legal qualification;

13) a criminal law more favorable to the convict was issued;

14) the Constitutional Court acknowledged the provisions of law applied in the respective case as unconstitutional;

15) an international court determined in a judgment on a different case a violation on the national level of human rights and freedoms that may be redressed in this case as well.

(2) The cases specified in points 1)–4), 8), 9), 13)–15) shall be always considered ex officio, while the cases specified in points 5)–7), 10), 12) shall be considered ex officio only when they affected a judgment issued to the detriment of the defendant.

(3) Should the court consider grounds for cassation ex officio, it shall be obliged to bring them up for discussion with the parties.

Article 445. Filing, Waiving and Withdrawing a Cassation

(1) A cassation shall be filed in writing by the persons specified in art. 401 and shall be reasoned.

(2) A request for cassation shall include:

1) the name of the court the cassation is filed with;

2) the last and first names of the cassation appellant, his/her procedural capacity or the person whose interests he/she represents and his/her address;

3) the name of the court that pronounced the sentence, the date of the sentence, the last and first names of the defendant in whose regard the court judgment is appealed, the act established and the dispositive part of the sentence, the person who filed the cassation;

4) the content of and reasons for cassation justifying the illegality of the judgment appealed and the requests of the cassation appellant specifying the grounds provided in art. 444 and suggestions for the expected judgment;

5) the date of cassation and the signature of the cassation appellant.

(3) A cassation request shall be filed with the court the judgment of which is appealed and shall be accompanied by a number of copies equal to the number of participants in the proceeding. The arrestee may file the cassation request with the administration of the place of detention without attaching any copies thereto.

(4) Upon the expiry of the timeframe set for filing a cassation, the court that pronounced the sentence shall send within five days the criminal case file and the cassation request to the court of cassation.

(5) Cassation shall be waived and withdrawn in line with the provisions in arts. 406 and 407 which shall duly apply.

[Art.445 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 446. Preparatory Procedural Acts of the Court of Cassation

Upon receipt of a cassation, the following preparatory procedural acts shall be performed:

1) a judge shall be appointed to prepare the case for hearing;

2) the date of case hearing shall be set and copies of the cassation shall be handed to interested parties.

[Art.446 in version of Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 447. Procedure for Hearing a Cassation

(1) The prosecutor, attorney and other parties shall be summoned for hearing a cassation. The participation of the prosecutor and attorney in the hearing of the court of cassation shall be mandatory. The failure to appear by the legally summoned defendant, injured party, civil party and civilly liable party, and of their representatives shall not prevent the hearing on cassation from proceeding; however, if necessary, the court of cassation may acknowledge their presence as mandatory and shall notify them thereof. The presence of a defendant kept under arrest shall be mandatory except when he/she refuses to be escorted to the hearing.

(2) The chairperson of the hearing shall announce the case for which the cassation was filed, the last and first names of the judges on the panel and of the prosecutor, attorneys, interpreter/translator, if they participate in the hearing and shall check on any recusal requests.

(3) The cassation appellant shall speak first followed by other participants in the hearing. If the cassation of the prosecutor is among those filed, he/she shall speak first. If a cassation is heard by the Supreme Court of Justice, the speeches of the participants may not exceed 30 minutes. The participants may not exceed the limits of the arguments invoked in the cassation.

(4) Should the parties invoke the need to manage new evidence, they shall specify this evidence and the means by which it may be managed and the reasons that prevented them from presenting such evidence in the first instance.

(5) The parties shall be entitled to reply to issues arising in the course of the arguments.
[Art.447 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 448. Hearing a Cassation

(1) When hearing a cassation the court shall verify the legality and validity of the judgment appealed based on the case file materials and on any new documents presented to the court of cassation.

(2) The court of cassation shall be obliged to rule on all the reasons invoked in the cassation.

Article 449. Decision of the Court of Cassation

(1) Upon hearing the cassation, the court shall issue one of the following decisions:
1) to reject the cassation and uphold the judgment appealed if:
a) the cassation is ungrounded;
b) the cassation is filed outside the timeframe;
c) the cassation is inadmissible;
2) to admit the cassation, to repeal the judgment in whole or in part making one of the following decisions:
a) to acquit the person or terminate the criminal proceeding in cases provided in this Code;
b) to rehear the case by adopting a new judgment;
c) to order the rehearing of the case in the court of first instance if additional evidence needs to be managed.

(2) The decision shall be prepared and issued in line with the provisions in arts. 417 and 418 which shall duly apply.
[Art.449 amended by Law No. 264-XVI dated 28.07.2006]

Article 450. Complementary Issues

(1) By settling the cassation, the court of cassation shall also consider other additional issues provided in art. 416 which shall duly apply.

(2) When the court of cassation returns the case for rehearing in line with art. 449 point 2) letter c), it shall also rule on the evidence to be managed.

Article 451. Procedure for Rehearing and Its Limits

The procedure for rehearing and its limits shall be regulated by the provisions of art. 436 which shall duly apply.

Chapter V
EXTRAORDINARY MEANS OF APPEAL

Section 1
Cassation for Annulment

Article 452. Cassation for Annulment

(1) The Prosecutor General, his/her deputies and the persons specified in art. 401 points 2)–4) may file a cassation for annulment with the Supreme Court of Justice against any irrevocable court judgment after using all ordinary means of appeal.

(2) The parties may file a cassation for annulment in favor of the convicted person and against an irrevocable judgment also if the ordinary means of appeal were not used provided that a situation favorable to the convicted person came to light after the judgment appealed became irrevocable.

[Art.452 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.452 amended by Law No. 248-XVI dated 21.10.05, in force as of 04.11.05]
[The words "through mediation of the attorney" in art. 452, par. (1)are declared unconstitutional pursuant to the Decision of the Constitutional Court No. 16 dated 19.07.05, in force as of 19.07.05]

Article 453. Grounds for Filing a Cassation for Annulment

(1) An irrevocable judgment to convict, acquit or terminate a criminal proceeding may be appealed in cassation for annulment to correct errors of law made in the course of a case hearing:

1) if cassation affects the situation of the parties in the proceeding:

a) when there are no elements of a crime or the court pronounced a conviction for an act other than the one committed by the defendant charged, except in cases of the legal requalification of his/her actions based on a milder law;

b) when the defendant was convicted for an act not provided in criminal law;

c) when a final sentence was previously issued for the convicted person for the same act or a circumstance exists that eliminates criminal liability or the punishment was eliminated by a new law or cancelled by an act of amnesty or pardon or if the convicted person has died;

d) when an international court determines in its judgment a violation of human rights and freedoms that may be redressed in a new hearing;

e) when the Constitutional Court acknowledged the law applied in the respective case was unconstitutional;

f) when the convicted person was extradited provided that some parts of the charge are excluded from the conviction sentence;

2) if cassation may be filed only in favor of the convicted person:

a) when the panel of judges was not composed in line with the law or if the provisions in arts. 30, 31 and 33 were violated;

b) when the case was heard in the absence of the prosecutor, defendant, defense counsel, interpreter/translator if their participation is mandatory by law;

c) when the court admitted a means of appeal not provided by law or the appeal or ordinary cassation were filed with a delay.

(2) Irrevocable judgments other than the ones specified in para. (1) may be appealed in cassation for annulment only if they are contrary to the law.

(3) Cassation for annulment shall be inadmissible if it is not based on the reasons provided under this article or is filed repeatedly referring to the same reasons.
[Art.453 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 454. Timeframe for Filing Cassation for Annulment

(1) Cassation for annulment related to the criminal aspect of the case and in favor of the convicted person or the person in whose regard the criminal proceeding was terminated may be filed at any time, even after death.

(2) In other cases, cassation for annulment may be filed only within one year from the date the judgment became irrevocable provided that a fundamental fault in the previous proceeding affected the judgment appealed.

(3) In the case provided in art. 453 para. (1) point 1) letter d), cassation for annulment may be filed within six months from the date the decision issued by the international court was communicated to the government.
[Art.454 amended by Law No. 264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 455. Filing and Withdrawing Cassation for Annulment

(1) Cassation for annulment shall be filed with the Supreme Court of Justice.

(2) A request for cassation for annulment shall include:
1) the name of the court the cassation is filed with;
2) the last and first names of the cassation appellant, his/her procedural capacity, his/her domicile or residence;
3) the name of the court that pronounced the sentence, the date of the sentence, the last and first names of the defendant in whose regard the court judgment is appealed, the act established and the dispositive part of the sentence and the person who filed the appeal and the reasons invoked for appeal;
4) the name of the court that issued the decision in appeal, the date of the decision of the court of appeals, the dispositive part of the decision of the court of appeals and the arguments admitting or rejecting the appeal, the person who filed the cassation and the reasons invoked in cassation;
5) the name of the court that issued the decision on cassation, the date of the decision of the court of cassation and the arguments admitting or rejecting the cassation;
6) a remark on the judgment against which the cassation for annulment is filed;
7) the content of and reasons for cassation for annulment specifying the cases provided in art. 453 and establishing the illegality of the judgment appealed or if cassation for annulment is filed against the person convicted or acquitted or the person in whose regard the criminal proceeding was terminated the request shall refer to the fundamental fault that affected the judgment appealed and why the respective case is of special interest for jurisprudence;
6) suggestions for the expected judgment;

7) date of cassation and signature of the cassation appellant.

(3) To a request for cassation for annulment shall be attached copies of the court judgments appealed and copies of the cassation for every party in the proceeding.

(4) The person who files for cassation for annulment may withdraw it prior to its hearing in line with art. 407. Withdrawing cassation implies the termination of the cassation proceeding.
[Art.455 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.455 amended by Law No.35-XVI dated 24.02.06, in force as of 17.03.06]
[Art.455 amended by Law No.248-XVI dated 21.10.05, in force as of 04.11.05]
[Par.(3) of art.455 is declared unconstitutional pursuant to the Decision of the Constitutional Court No. 16 dated 19.07.05, in force as of 19.07.05]

Article 456. Preparatory Procedural Acts and Admissibility of Cassation for Annulment

The preparatory procedural acts of the court of cassation for annulment and the procedure for admitting cassation for annulment shall be performed in line with the provisions in arts. 431 and 432 which shall duly apply.

Article 457. Hearing and Settling a Case Admitted for Cassation for Annulment

(1) A case admitted for cassation for annulment shall be heard by the Greater College or, as the case may be, the Plenum of the Supreme Court of Justice.

(2) The Prosecutor General or the prosecutors authorized by him/her and the defense counsel of the party who filed the cassation for annulment or in whose regard it was filed shall participate in the hearing of the cassation for annulment. Should the party in whose regard the cassation for annulment was filed have no chosen defense counsel, the Supreme Court of Justice shall request that the Coordinator of the Regional Office of the National Council for the Legal Assistance Guaranteed by the State appoint an attorney to provide the legal assistance guaranteed by the state.

(3) Cassation for annulment shall be settled in line with the provisions in arts. 434–436 duly applied.
[Art.457 amended by Law No.89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.457 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Section 2
Reviewing a Criminal Proceeding

Article 458. Cases for Reviewing a Criminal Proceeding

(1) Irrevocable court judgments may be subject to review in relation to both the criminal and the civil aspects of the cases.

(2) Should the court judgment refer to several persons or several crimes, a review may be requested for any of the acts or perpetrators.

(3) A review may be requested if:
1) when reaching an irrevocable judgment it was established that a witness made deliberately false statements or an expert presented deliberately false reports, or that the

material evidence, the transcript of the criminal investigation or court actions or other documents were false or that a translation was intentionally incorrect leading to a judgment that was ungrounded or contrary to law;

2) when reaching a final judgment it was established that the judges and prosecutors in the course of the case hearing committed abuses construed as crimes;

3) when reaching a final judgment it was established that the persons who conducted the criminal investigation of the case committed abuses construed as crimes, which led to a judgment that was ungrounded or contrary to law;

4) other circumstances were established unknown to the court when issuing the judgment and which, separately or in conjunction with previously established circumstances, prove the innocence of the convicted person or that he/she committed a crime less serious than the one for which he/she was convicted or that prove the guilt of the acquitted or of the person in whose regard the criminal proceeding was terminated;

5) two or more irrevocable court judgments contradict one another.

(4) If a judgment cannot be issued due to the expiry of the limitation period for criminal liability or due to an act of amnesty or to the fact that some persons were pardoned, and due to the death of the accused, the circumstances specified in para. (3) points 1)–3) shall be established by an investigation performed in line with the provisions in arts. 443 and 444.

Article 459. Timeframe for Filing a Review of a Criminal Proceeding

(1) A review of a judgment of acquittal, termination of a criminal proceeding and a review of a judgment of conviction because the punishment is too mild or because the convicted person must be tried for a more serious crime may be filed only within limitation period for criminal liability set out in art.60 of the Criminal Code and not later than within one year from the discovery of the circumstances provided in art.458 para. (3).

(2) A review in favor of a convicted person of a judgment of conviction, if the circumstances provided in art.458 para. (4) are discovered, shall not be limited by any timeframe.

(3) The death of a convicted person shall not prevent a review of the criminal proceeding as a result of discovering circumstances provided in art. 458 para. (4) if the issue is the rehabilitation of the convicted person.

Article 460. Initiating Review Proceedings

(1) A review shall be initiated based on a request addressed to the prosecutor of the level of the court that heard the case in the first instance.

(2) A review request may be filed by:

1) any party in the proceeding within the limits of their procedural capacity;

2) the spouse and close relatives of the convicted person even after his/her death.

(3) A review request shall be filed in writing and shall specify the reason on which the review is based and the means of evidence to prove it.

(4) The management or the managers of legal entities aware of any act or circumstance that would be reason for a review shall be obliged to notify the prosecutor.

(5) The prosecutor may ex officio initiate review proceedings.

(6) Should there be any of the grounds specified in art. 458, the prosecutor within the limits of his/her competence shall decide to initiate review proceedings and shall investigate the circumstances or shall assign this task to a criminal investigative officer. In the course of investigating any newly discovered circumstances, interrogations, on-site investigations, expert reports, the seizure of objects or documents and other necessary criminal investigative actions may be performed in line with the provisions of this Code.

(7) If there are no grounds specified in art. 458, the prosecutor shall issue an ordinance refusing to initiate a review proceeding. The ordinance shall be appealed in the manner provided in art. 313.

(8) In the course of investigating newly discovered circumstances, the Prosecutor General shall be entitled to file a motion to suspend the execution of the judgment within the limits of the review request.
[Art.460 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 461. Transmitting to Court Investigative Materials in a Review

Upon completing an investigation of new circumstances, the prosecutor shall transmit all the materials together with his/her conclusions to the court that heard the case in the first instance. If the grounds for the review refer to contradicting court judgments, the materials shall be transmitted to the competent court in line with the provisions in art. 42.

Article 462. Preliminary Measures and Admitting a Review

(1) Upon receipt of the materials sent by the prosecutor, the court president shall assign them for hearing in line with art. 344. The judge assigned the materials shall set the date for hearing the review request in view of admitting the review for which the interested parties shall be summoned.

(2) If the person in whose favor or detriment the review was requested is under arrest, even for a different case, the chairperson of the hearing shall order that this person be brought before the court and shall request that the Coordinator of the Regional Office of the National Council for the Legal Assistance Guaranteed by the State appoint an attorney to provide the legal assistance guaranteed by the state if he/she has no defense counsel.

(3) On the date set, the court, upon hearing the parties present, shall consider whether the review request was filed in line with the law and if the evidence managed in the course of the investigation reveal data sufficient to admit a review. The court may verify any of the evidence on which the review is based or, if necessary, may manage new evidence upon the request of the parties. The persons specified in art. 458 para. (3) points 1)–3) may be heard as witnesses in a case subject to review.

(4) Based on the facts established, the court shall decide in a ruling to admit the review request or in a sentence to reject it.

(5) When admitting a review request and in the entire course of the de novo hearing of the case, the court may uphold the suspension of execution or may justifiably suspend, integrally or partially, the execution of the judgment subject to review.

(6) Should the review request be admitted due to several contradicting judgments, the cases on which these judgments were issued shall be merged for rehearing.
[Art.462 amended by Law No.89-XVI dated 24.04.2008, in force as of 01.07.2008]

Article 463. Rehearing the Case after Admitting a Review

(1) After admitting a review, the case shall be reheard in line with the procedural rules for a hearing in the first instance.

(2) The court if it finds it necessary, at the request of the parties shall examine *de novo* the evidence managed in the course of previous hearings or due to admitting the review request.

Article 464. Judgments after Rehearing

(1) Should the court establish that the request for review is grounded, it shall repeal the judgment to the extent to which the review was admitted or the contradicting judgments, and shall issue a new judgment in line with the provisions of arts. 382–399 and 410 which shall duly apply. If the court finds the review request ungrounded, it shall reject it.

(2) At the same time, if necessary, the court shall decide to return any fines paid and the goods confiscated and the judicial expenses the person in whose favor the review was admitted was not obliged to incur, and to consider the duration of the executed part of a punishment depriving liberty as an uninterrupted length of service.

Article 465. Appealing a Judgment after a Review

The sentences of the court of review issued in line with art. 462 para. (4) and art. 464 may be subject to appeal and cassation in line with the provisions in arts. 400 and 420.

Chapter VI
CONVEYING COURT JUDGMENTS FOR EXECUTION

Article 466. A Court Judgment Becoming Final and Conveying It for Execution

(1) A court judgment in a criminal case shall be executable on the date it becomes final.

(2) A judgment of a court of first instance shall become final:
1) on the date of pronouncement, if the judgment is not subject to appeal and cassation;
2) on the date of the expiry of the timeframe for filing an appeal:
a) when an appeal is not filed in due time;
b) when an appeal filed is withdrawn within the set timeframe;
3) on the date of withdrawal of an appeal and the termination of the appeal proceeding if it occurs after the expiry of the timeframe for filing an appeal;
4) on the date of the expiry of the timeframe for filing a cassation if judgments are not subject to appeal or if an appeal was rejected:
a) when a request for cassation was not filed in due time;

b) when a cassation filed is withdrawn within the set timeframe;

5) on the date of the withdrawal of cassation filed against the judgments specified in point 4) and the termination of cassation proceedings if it occurs after the expiry of the timeframe for filing a cassation;

6) on the date of the pronouncement of the judgment in which a cassation filed against the judgments specified in point 4) was rejected.

(3) The judgments of the courts of appeals shall become final on the dates decisions on appeals are pronounced.

(4) The judgments of the court of cassation against the judgments on cases for which the law provides for the remedy of appeal shall become final on the dates they are pronounced if:

1) cassation was admitted and the proceeding was completed in the court of cassation without a rehearing;

2) the case was reheard by the court of cassation after cassation was admitted;

3) they refer to the obligation to pay judicial expenses if cassation was rejected.

(5) The court judgments specified in paras. (2) and (4) shall become irrevocable on the date they become final. The judgment of the court of cassation filed against a decision of a court of appeals shall become irrevocable on the date it is pronounced.

Article 467. Mandatory Nature of Final Court Judgments and of Orders of the Prosecutor Terminating Criminal Investigations

(1) Final court judgments and orders of the prosecutor terminating criminal investigations shall be mandatory for all individuals and legal entities nationwide and shall be executable throughout the entire territory of the Republic of Moldova.

(2) The cooperation requested in the course of executing final judgments and orders of the prosecutor terminating criminal investigations shall be mandatory for all individuals and legal entities.

(3) Orders of the prosecutor terminating criminal investigations shall be enforceable documents.

[Art.467 in version of Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]

Article 468. Conveying Court Judgments for Execution

(1) The duty to convey court judgments for execution shall be assigned to the court that heard the case in the first instance. Judgments pronounced in the first instance by the courts of appeals shall be executed by the body authorized to enforce court judgments under the court in the territorial jurisdiction in which the court of appeals is located. Final judgments pronounced in the first instance by the Supreme Court of Justice shall be executed by the body authorized to enforce court judgments under the court in the territorial jurisdiction in which the Supreme Court of Justice is located. Within 10 days from the date a judgment becomes final, an order to execute the court judgment shall be sent by the court president together with a copy of the final judgment to the body authorized to convey the sentence for execution in line with the provisions of legislation on enforcement. If a case was heard on appeal and/or cassation, a copy of the sentence shall be attached to the copy of the decision of the court of appeals and/or cassation.

(2) The bodies enforcing the sentence shall immediately, however, no later than within five days, notify the court that sent the respective judgment about its execution. The administration of the place of detention shall notify the court that sent the judgment about the place where the convicted person will serve his/her punishment.

(3) The court that pronounced the sentence shall be obliged to monitor its execution.

(4) The court that pronounced the sentence shall be obliged to notify within 10 days the local military administrative agency about a final sentence issued with regard to a convicted recruit.

(5) The court shall send the military identity cards of persons liable for military service and any special certificates of recruits sentenced to imprisonment or to life imprisonment to the respective local military administrative agencies.

Article 469. Issues to Be Solved by the Court when Enforcing a Punishment

(1) When enforcing a punishment, the court shall resolve issues related to changes in the execution of certain sentences in particular:

1) pre-term conditional exemptions from punishment (art. 91 of the Criminal Code);

2) substituting the unexecuted part of a punishment with a milder punishment (art. 92 of the Criminal Code);

3) exempting seriously ill persons from punishment (art. 95 of the Criminal Code);

4) deferring punishment for pregnant women and women with children under the age of 8 (art. 96 of the Criminal Code), cancelling their deferral, exempting them from punishment, substituting their punishment or sending the unexecuted punishment for execution;

5) judicial rehabilitation (art. 112 of the Criminal Code);

6) changing the category of penitentiary (art. 72 of the Criminal Code);

7) replacing a fine with community service or imprisonment (art. 64 of the Criminal Code);

8) replacing community service with imprisonment (art. 67 of the Criminal Code);

9) cancelling a conviction with a conditional suspension of punishment or, as the case may be, a pre-term conditional release and obliging a convicted person to serve any unexecuted punishment (art. 90 and 91 of the Criminal Code);

10) searching for convicted persons hiding from the authorities conveying the punishment for execution;

11) executing the sentence if other unexecuted judgments, if this was not resolved when the last judgment was issued;

12) computing the term of preventive arrest or house arrest if this was not resolved when the conviction was issued;

13) setting, changing, extending or terminating coercive medical measures ordered for mentally ill persons (art. 101 of the Criminal Code);

13^1) forced placement in a pulmonary institution (art. 96^1 of the Criminal Code);

14) exempting a convicted person from punishment or applying a milder form of punishment based on a new law with a retroactive effect;

15) exempting a convicted person from punishment based on an act of amnesty;

16) exempting a convicted person from punishment due to the expiry of the limitation period for enforcing a conviction (art. 97 of the Criminal Code);

17) explaining doubts and ambiguities in executing the punishments;

18) other issues provided by law occurring in the course of executing punishments by the convicted persons.

(2) Issues related to executing court judgments related to civil actions and other civil issues shall be settled in line with the provisions of legislation on executing documents of a civil nature.
[Art.469 completed by Law No. 128-XVI dated 06.06.2008, in force as of 01.01.2009]
[Art.469 amended by Law No.184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 470. Resolving Issues Related to the Execution of Court Judgments

(1) The issues related to the execution of judgments listed in art. 469 para. (1) points 1)-4) , 6), 8)–16) and 18) shall be resolved by the court in the territorial jurisdiction of the body or agency executing the punishment.

(2) Issues related to judicial rehabilitation shall be resolved by the court in the place of residence of the person requesting rehabilitation.

(3) Issues related to explaining doubts and ambiguities in the course of executing punishments shall be settled by the court that issued the final judgment.
[Art.470 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 471. Manner for Resolving Issues Related to Conveying Court Judgments for Execution

(1) Issues related to conveying court judgments for execution shall be resolved by the investigative judge upon a motion of the body or agency executing the punishment. A representative of the body or agency that filed the motion shall be summoned to the hearing.

(2) A request from a convicted person may also serve as grounds for hearing the issues listed in art. 469 para. (1) points 1)–7), 11), 12), 14)–16) and 18).

(3) When resolving the issues listed in art. 469 para. (1) point 1), 2), 4)–9), 11), 14)–17), the participation of the convicted person in the hearing shall be mandatory except in cases when he/she, has been legally summoned but has failed to appear before the court. A convicted person present at the hearing shall be entitled to review the materials submitted to court, to participate in their examination, to file requests including requests for recusal, to provide explanations and to present evidence.

(4) A convicted person may defend his/her interests through mediation of a defense counsel. When resolving issues related to executing sentences with regard to juveniles, to persons with physical or mental disorders preventing them from independently exercising their right to defense, to persons who do not speak the language of the proceeding, when the request or motion is examined in the absence of the convicted person, as well as in other cases when the interests of justice so require, the participation of a defense counsel shall be mandatory.

(5) The issues provided in art. 469 para. (1) point 3) shall be resolved based on the forensic expert's report (psychiatric-forensic or medico-forensic) ordered by the court and the participation of the forensic expert shall be mandatory. The issues provided in art. 469 para. (1) point 13) shall be resolved based on the report of a medical institution and at the request of

the court with the participation of the representative of the medical commission that issued the medical report.

(5^1) When examining a motion by the administration of the penitentiary to forcibly place a person in a pulmonary institution in line with art. 96^1 of the Criminal Code, the court shall consider the opinion of the doctor in charge whose presence at the hearing shall be mandatory.

(5^2) The timeframe for forced placement in a specialized hospital shall be set by the medical commission of the medico-sanitary pulmonary institution depending on the result of any treatment and the contagiousness of the patient. A patient for whom a court judgment requires hospitalization and treatment shall be discharged from the pulmonary institution only by a court judgment based on the report of the medical commission of the respective institution.

(5^3) For the part not regulated by this Code, the motion of the administration of a penitentiary on forced placement in a pulmonary institution shall be examined in line with the provisions of Chapter XXIX of the Civil Procedure Code.

(6) When resolving issues on executing a court judgment on a civil action both the convicted person and the civil party or his/her representative shall be summoned to the hearing. The failure of the civil party or of his/her representative to appear shall not prevent the court from hearing the case.

(7) The participation of the prosecutor in the hearing shall be mandatory.

(8) A case hearing shall begin with the report of the representative of the body that filed the motion or with the explanation of the person who filed the request. Thereafter, the materials presented shall be examined, the explanations of the persons present at the hearing and the opinion of the prosecutor shall be heard and then the court shall issue a ruling.
[Art.471 completed by Law No. 128-XVI dated 06.06.2008, in force as of 01.01.2009]
[Art.471 amended by Law No.12-XVI dated 14.02.2008, in force as of 14.03.2008]
[Art.471 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.471 amended by Law No.184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 472. Appealing Rulings Resolving Issues Related to Executing Court Judgments

A court ruling resolving issues related to executing court judgments may be appealed in cassation by interested persons within 15 days. Cassation shall be heard in line with the provisions in Title II, Chapter IV, Section 2, §2 of the Special Part.
[Art.472 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 473. Complaints about the Actions of the Body or Agency Conveying a Conviction for Execution

(1) The convicted person and other persons whose legal rights and interests were violated by the body or agency conveying a conviction for execution may file a complaint about the actions of these bodies or agencies with the investigative judge from the institution in the territorial jurisdiction in which the respective body or agency is located.

(2) A complaint about the actions of the body or agency conveying a conviction for enforcement shall be examined in line with the provisions in art. 471. The ruling resolving the complaint shall be irrevocable.

[Art.473 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Section III
SPECIAL PROCEDURES

Chapter I
PROCEDURES IN CASES INVOLVING JUVENILES

Article 474. General Provisions

(1) The criminal investigation and hearing of cases involving juveniles and conveying for enforcement court judgments involving juveniles shall be performed in line with the usual procedures with the additions and exceptions in this Chapter.

(2) The provisions of this Chapter shall apply to cases involving persons who at the moment of the commission of the crime have not reached the age of 18.

(3) The hearing of a case involving a juvenile shall, as a rule, not be public.

Article 475. Circumstances to Be Established in Cases Involving Juveniles

(1) In the course of a criminal investigation and the hearing of a case involving juveniles, in addition to the circumstances provided in art. 96, the following shall be established:

1) the age of the juvenile (date, month and year of birth);

2) the conditions in which the juvenile lives and is educated, his/her level of intellectual, volitional and psychological development, peculiarities of his/her character and temper, his/her interests and needs;

3) the influence of adults or other juveniles on the juvenile;

4) the reasons and conditions that contributed to the commission of crime.

(2) Should it be established that the juvenile suffers from a mental debility that is not related to a mental disease, it shall also be established if he/she was fully aware of the commission of the act. In order to establish these circumstances, the parents, teachers, educators of the juvenile and other persons who can provide the necessary information shall be heard, and a public enquiry, the necessary documents shall be requested and other criminal investigative and judicial acts shall be performed.

Article 476. Splitting a Case Involving Juveniles

(1) If adults participated in the commission of the crime along with a juvenile, the case involving the juvenile shall be split to the extent possible and a separate case file shall be created.

(2) Should a split be not possible, the provisions of this Chapter shall apply only to the juvenile.

Article 477. Detaining a Juvenile and Applying Preventive Measures

(1) When resolving the issue of preventive measures for juveniles, the possibility of transferring a juvenile under supervision in line with art. 184 shall be mandatorily discussed in every case.

(2) The detention and preventive arrest of juveniles based on the grounds provided in arts. 166, 176, 185, 186 may be applied only in exceptional cases if serious crimes involving violence, especially serious or exceptionally serious crimes were committed.

(3) The prosecutor and the parent or other legal representatives of the juvenile shall be notified of the detention or preventive arrest of the juvenile and a note to that effect shall be made in the transcript of detention.
[Art.477 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]
[Art.477 amended by Law No.184-XVI dated 29.06.2006, in force as of 11.08.2006]

Article 478. Manner for Summoning a Juvenile Suspect/Accused/Defendant

A juvenile suspect/accused/defendant who is not under arrest shall be summoned to the criminal investigative body or to the court via his/her parents or other legal representatives or if the juvenile is in a special institution for juveniles via the administration of this institution.

Article 479. Hearing a Juvenile Suspect/Accused/Defendant

(1) A juvenile suspect/accused/defendant shall be heard in line with art. 104. Any interrogation may not last more than two hours without breaks and in total may not exceed four hours per day.

(2) When hearing a juvenile suspect/accused/defendant, the participation of a defense counsel and of a teacher or psychologist shall be mandatory.

(3) The teacher or the psychologist shall be entitled, with the consent of the criminal investigative body, to address questions to the juvenile and upon the completion of the hearing to review the transcript or, as the case may be, the written statements of the juvenile and to make written remarks on their completeness and correctness. These rights shall be explained to the teacher or the psychologist prior to the beginning of the hearing for a juvenile and a relevant entry to that effect shall be made in the respective transcript.

Article 480. The Participation of the Legal Representative of a Juvenile Suspect/Accused/Defendant in a Criminal Proceeding

(1) The participation of the legal representative of a juvenile suspect/accused/defendant in a criminal proceeding shall be mandatory except for cases provided in this article.

(2) The legal representative of a juvenile suspect/accused/defendant shall be admitted to the criminal proceeding by an order of the criminal investigative body from the moment of detention or preventive arrest or of the first hearing of a juvenile who is not detained or arrested. Once the legal representative of the juvenile is admitted to the proceeding, he/she shall be handed written information about the rights and obligations provided in art. 78, and an entry to that effect shall be made in the order.

(3) The legal representative of a juvenile may be removed from a criminal proceeding or replaced by another, if possible, if there are grounds to consider that his/her actions prejudice

the interests of the juvenile. The court or, as the case may be, the body conducting the criminal investigation shall issue a reasoned judgment on the removal of the legal representative of a juvenile and his/her replacement by another representative.

Article 481. Hearing a Juvenile Witness

(1) A juvenile witness shall be summoned and heard in line with the provisions in arts. 105, 109 and 478–480 which shall duly apply.

(2) Prior to hearing him/her, a juvenile witness shall be advised of his/her rights and obligations as provided in art. 90 including the obligation to make true statements. A juvenile witness shall not take the oath.

(3) The legal representative of a juvenile witness or, as the case may be, his/her representative in line with the provisions in arts. 91 and 92 shall participate in his/her hearing.

Article 482. Completion of a Criminal Investigation with Regard to a Juvenile

Upon the completion of a criminal investigation with regard to a juvenile, the criminal investigative body may by a reasoned order not present to the accused juvenile some criminal investigative materials, which, to its mind, may have a negative impact on the juvenile; however, these materials shall be presented to the legal representative of the juvenile.

Article 483. Terminating a Criminal Investigation and Exempting a Juvenile from Criminal Liability

(1) If it is established in the course of a criminal investigation for a minor or less serious crime committed by a juvenile that the juvenile committed such a crime for the first time and that he/she may reform without subjecting him/her to criminal liability, the criminal investigative body may propose that the prosecutor terminate the criminal investigation of the juvenile and exempt him/her from criminal liability based on the grounds provided in art. 54 of the Criminal Code and instead apply coercive educational measures in line with the provisions in art. 104 of the Criminal Code.

(2) The motion of the prosecutor to exempt a juvenile from criminal liability and place him/her in a special education and reeducation institution or in a treatment and reeducation institution shall be examined by the investigative judge in line with the provisions in art. 308. Should the investigative judge reject the motion to exempt a juvenile from criminal liability and place him/her in a special education and reeducation institution or in a treatment and reeducation institution, the prosecutor shall cancel the ordinance on termination of the criminal proceeding and shall send the case and the indictment to court in the usual manner.

(3) Control over the execution by the juvenile of the requirements in the educational measure shall be exerted by the specialized state body ensuring juvenile reform.

(4) The termination of criminal proceedings on the grounds specified in para. (1) shall not be admitted if the juvenile or his/her legal representative disagrees with it.

(5) When hearing a criminal case on its merits, the court shall be entitled to terminate criminal proceedings on the grounds specified in para. (1) and to apply the provisions in arts. 54 and 104 of the Criminal Code.

[Art.483 amended by Law No.292-XVI dated 21.12.2007, in force as of 08.02.2008]
[Art.483 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 484. Removing a Juvenile Defendant from the Courtroom

(1) Upon the request of the defense counsel or the legal representative of a juvenile defendant, the court hearing the opinions of the parties shall be entitled to decide to remove a juvenile defendant from the courtroom for the duration of the examination of circumstances that could have a negative impact on the juvenile.

(2) Upon a juvenile's return to the courtroom, the chairperson of the hearing shall inform him/her in a straightforward manner about the nature of the examination in his/her absence and shall provide him/her with the possibility to address questions to the persons heard in his/her absence.

(3) If there are several defendants in the same case and some of them are juveniles aged under 16, the court, upon hearing those persons who have not reached the age of 16, may decide to remove them from the courtroom if it deems that further judicial inquiry and the arguments could have a negative impact on the juveniles.

Article 485. Issues to Be Resolved by the Court when Issuing a Sentence in a Proceeding Involving a Juvenile

(1) When issuing a sentence in a proceeding involving a juvenile, in addition to the issues specified in art. 385, the court shall examine the possibility of exempting the juvenile from criminal liability in line with the provisions in art. 93 of the Criminal Code or to conditionally suspend the execution of his/her punishment in line with the provisions in art. 90 of the Criminal Code.

(2) If the juvenile is exempted from criminal liability and placed in a special education and reeducation institution or in a treatment and reeducation institution and if the coercive educational measures provided in art. 104 of the Criminal Code are applied, the court shall inform thereof the respective specialized state body and shall assign it to monitor the behavior of the convicted juvenile.

Article 486. Exempting a Juvenile from Criminal Liability and Applying Educational Measures

Should the court establish the conditions provided in art. 93 of the Criminal Code, when issuing a conviction it shall decide to exempt a juvenile defendant from criminal liability and apply to him/her the educational measures provided in art. 104 of the Criminal Code.

Article 487. Exempting a Juvenile from Placement in a Special Education and Reeducation Institution or in a Treatment and Reeducation Institution

(1) Should the court establish the circumstances provided in art. 93 of the Criminal Code, when issuing a conviction it shall decide to exempt the juvenile from criminal liability and place him/her in a special education and reeducation institution or in a treatment and

reeducation institution until he/she reaches majority, however, for a term not exceeding the maximum term of punishment provided by the Criminal Code for the crime committed by the juvenile.

(2) The juvenile's stay in the special education and reeducation institution or in a treatment and reeducation institution may be terminated prior to reaching majority if he/she has reformed and does not need to be anymore influenced by this measure. Extensions of a person's stay in the aforementioned institutions after reaching majority shall be admitted only prior to him/her completing his/her general or professional education. The issue of terminating or extending a juvenile's stay in the aforementioned institutions shall be resolved based on a motion by the specialized state body ensuring juvenile reform to the investigative judge of the court that issued the sentence or of the court in the territorial jurisdiction in which the juvenile lives within 10 days from receipt of the motion.

(3) The convicted juvenile, his/her legal representative, defense counsel, the prosecutor and a representative of the specialized state body shall be summoned to the examination of the motion. The failure of a legally summoned convicted juvenile and his/her legal representative to appear shall not prevent the court from examining the motion if the case may be heard in their absence.

(4) The conclusion of the specialized state body that filed the motion shall be examined in the hearing, the opinions of the persons participating in the hearing shall be heard and then the court shall issue a ruling admitting or rejecting the motion. The court ruling may be subject to cassation by interested persons.
[Art.487 amended by Law No.264-XVI din 28.07.2006, in force as of 03.11.2006]

Chapter II
PROCEDURES FOR APPLYING COERCIVE MEDICAL MEASURES

Article 488. Grounds for Applying Coercive Medical Measures

(1) The coercive medical measures specified in art. 99 of the Criminal Code shall be applied by the court to persons who commit prejudicial acts regulated by criminal law in a state of irresponsibility and to persons who became mentally ill after committing a crime and were therefore not able to realize and control their actions if these persons are socially dangerous due to the nature of the act committed or because of their illness.

(2) Coercive medical measures shall be applied under the general provisions of this Code with the additions and exceptions in this Chapter.
[Art.488 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 489. Criminal Investigation

(1) A criminal investigation shall be conducted in the proceedings on prejudicial acts committed by irresponsible persons as well as crimes committed by persons who developed a mental illness after committing a prejudicial act.

(2) When conducting a criminal investigation under the conditions in para. (1), the following issues shall be clarified:

1) the time, place, manner and other circumstances of the commission of the prejudicial act;

2) whether the crime was committed by that person;

3) whether the person who committed the prejudicial act suffered from mental illness in the past; the degree and the nature of the mental illness at the moment of the commission of the prejudicial act or during the case investigation;

4) the behavior of the person who committed the prejudicial act both before and after its commission;

5) the nature and amount of the damage caused by the prejudicial act.

(3) This person shall be subject to a forensic psychiatric evaluation only if there are sufficient data indicating that this person committed the crime for which the criminal investigation is conducted.

[Art.489 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 490. Placement in a Psychiatric Institution

(1) Upon establishing the illness of the person in whose regard a criminal investigation is conducted and who is under arrest, the investigative judge shall order, based on a motion by the prosecutor, his/her placement in a psychiatric institution adapted for the detention of arrestees and shall revoke preventive arrest. The administration of the institution shall immediately notify the prosecutor who is managing the criminal investigation of the respective case about any subsequent improvement in the condition of a person placed in a psychiatric institution.

(2) Placing in a psychiatric institution persons who are not under arrest shall be done under the provisions in art. 152, securing the guarantees specified in art. 501 para. (1).

[Art.490 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 491. Splitting the Case of a Person who Committed a Prejudicial Act Prohibited by Criminal Law in a State of Irresponsibility or who Developed a Mental Disease after Its Commission

If it is established during the criminal investigation of crimes committed with complicity that one of the participants committed the crime in a state of irresponsibility or developed a mental illness after the commission of the crime, the case in his/her regard may be split into a separate case file.

Article 492. The Rights of a Person for Whom Coercive Medical Measures Are Applied

(1) A person for whom coercive medical measures are applied shall benefit from the rights stipulated in art. 66 which shall duly apply provided that the conclusion of the forensic psychiatric expert established that the nature and the degree of his/her illness do not prevent him/her from exercising these rights.

(2) The person specified in para. (1) shall be handed written information on his/her rights and a respective entry to that effect shall be made in the transcript.

Article 493. Participation of a Legal Representative

(1) A legal representative of a person for whom coercive medical measures shall be applied shall mandatorily participate in the procedure on the application of these measures.

(2) The legal representative of a person subject to coercive medical measures shall be recognized by an order of the criminal investigative body or a ruling of the court. The representative may be one of his/her close relatives or in their absence, any other person.

(3) The legal representative shall have the rights and obligations stipulated in art. 78 which shall duly apply. An entry shall be made in the respective transcript about giving the legal representative written information about his/her rights and obligations and about the necessary explanations provided to him/her.

Article 494. Participation of a Defense Counsel

(1)The participation of the defense counsel in the procedure for applying coercive medical measures shall be mandatory from the moment of the issuance of the order for an expert evaluation in a hospital of the psychiatric institution of the person for whom the procedure is conducted if the defense counsel was not previously admitted in this proceeding.

(2) As of the moment the defense counsel enters the proceeding, he/she shall have the right to meet the person whose interests he/she is defending without any limitation of the number or duration of such meetings, provided that the health of the person does not prevent such meetings. The defense counsel shall also have other rights stipulated in art. 68 which shall duly apply.

Article 495. Completion of a Criminal Investigation

(1) Upon the completion of a criminal investigation the prosecutor shall issue an order to:

1) terminate the criminal proceeding in the cases provided in art. 285 or if the nature of the act or the mental condition of the perpetrator indicate that the person is not socially dangerous;

2) send the case to court if grounds are established to apply coercive medical measures to the person who committed the crime.

(2) The order sending the case to court, except for the provisions in art. 255, shall refer to the circumstances of the case established during the criminal investigation, the grounds for applying coercive medical measures and the arguments of the defense counsel and of the persons rejecting the grounds for such measures if such were stated.

(3) The criminal investigative body shall notify the person in whose regard the proceeding is conducted provided that the nature and the degree of his/her illness do not prevent him/her from participating in procedural actions and shall also notify his/her legal representative and defense counsel and the injured party about terminating the proceeding or sending the case to court. The aforementioned persons shall be advised of their right to review the case file and shall be informed of the date and place when and where they may exercise this right. The manner of presenting the materials in the case file, filing requests and settling them shall be regulated by the provisions in arts. 294 and 295.

(4) An order terminating a criminal proceeding shall be issued in line with the provisions in art. 285. Should the criminal proceeding be terminated due to the fact that the respective

person, by the nature of the act and his/her mental condition, is not socially dangerous but is acknowledged as being mentally deficient, the criminal investigative body shall notify thereof the local health authorities.

(5) A copy of the order sending the case to court shall be handed to the legal representative of the person in whose regard the procedure is conducted.
[Art.495 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 496. Preparatory Measures for a Hearing

(1) The judge assigned to the case shall set the date of its hearing, announce the prosecutor, defense counsel and legal representative of the person whose case is to be heard, and order the summoning of witnesses, injured parties and, if necessary, experts.

(2) The court shall be entitled to summon the person whose case is to be heard, provided that the nature and degree of illness do not prevent him/her from appearing before the court.

Article 497. Hearing a Case

(1) Cases sent to court based on art. 495 shall be heard in line with the provisions of the Special Part, Section II, Chapters I and III, with the mandatory participation of the prosecutor and defense counsel.

(2) Evidence proving that the respective person committed or did not commit the prejudicial act provided by criminal law shall be verified in the hearing, the reports of the experts on the mental condition of the defendant shall be heard, and other circumstances essential for the settlement of the issue on applying coercive medical measures shall be verified.

(3) Upon the completion of the judicial inquiry, the court shall hear the opinions of the prosecutor, injured party, defense counsel and legal representatives.
[Art.497 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 498. Settlement of a Case by a Court

(1) The court shall settle a case with a sentence.

(2) When issuing a sentence the court shall consider the following issues:
1) if a prejudicial act provided by criminal law occurred;
2) if this act was committed by the person whose case is heard;
3) if this person committed the prejudicial act in a state of irresponsibility;
4) if after committing the act this person developed a metal illness making him/her unable to realize or control his/her actions and whether this illness is a temporary nervous disorder requiring only the suspension of the proceeding;
5) if it is necessary to apply any coercive medical measures and which ones specifically.

(3) When issuing the sentence the court shall also resolve the issues provided in art. 385 para. (1) points 10)–13) and 15).
[Art.498 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 499. Sentence Applying Certain Coercive Medical Measures

(1) If it is proven that the respective person committed a prejudicial act provided in criminal law in a state of irresponsibility or that this person, after committing the crime, developed a chronic mental condition making him/her unable to realize or to control his/her actions, the court shall issue, in line with art. 23 of the Criminal Code, either a sentence exempting this person from punishment or, as the case may be, from criminal liability or a sentence exempting him/her from punishment and applying to him/her certain coercive medical measures and specifying such measures or a sentence terminating the criminal proceeding and exempting him/her from of any such measures if, by the nature of the act committed and his/her health, the person is not socially dangerous and does not need forced treatment. In such cases, the court shall advise the health authorities about the ill person.

(2) Should the court find that the state of irresponsibility of the person whose case is heard was not proven or that the illness of the person who committed the crime does not prevent his/her punishment, the court shall issue a sentence dismissing the case on application of coercive medical measures and shall return the case to the prosecutor to initiate a criminal investigation under general procedures.

(3) If the person's participation in the commission of the crime was not proven and if the circumstances provided in art. 285 are present, the court shall issue a sentence terminating the criminal proceeding on the grounds established irrespective of the existence and nature of the person's illness and shall notify thereof the health authorities.

(4) With its sentence the court shall also resolve the issues specified in art. 397.
[Art.499 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 500. Appealing a Sentence on Applying Coercive Medical Measures

A court sentence to apply coercive medical measures may be subject to appeal or, as the case may be, cassation in a higher court by the prosecutor, defense counsel, injured party or his/her legal representative, representative of the person whose case was heard.

Article 501. Verifying the Need to Further Apply Coercive Medical Measures, Terminating or Changing Them

(1) The court shall periodically, however not less than once in six months, verify the need to further apply coercive medical measures.

(2) If upon the recovery of a person acknowledged as irresponsible or upon the amelioration of his/her health condition it is not necessary to further apply the coercive medical measure previously ordered and upon a proposal, based on the report of the medical commission, of the head doctor of the health facility to which the medical institution where the respective person is detained is subordinate, the court shall examine in line with arts. 469–471 the issue of terminating or changing the coercive medical measure.

(3) The provisions in paras. (1) and (2) shall also apply to a person who after committing a crime develops a chronic mental illness provided that this person, upon the amelioration of his/her health does not need coercive medical measures any longer although he/she remains mentally ill.

(4) A request to verify, terminate or change coercive medical measures may be filed by the person who is acknowledged to be irresponsible, by his/her close relatives, and by other interested persons. In these cases, the court shall request from the respective health authorities a reasoned opinion on the health condition of the person in whose regard the request was filed.

(5) The issues addressed in this article shall be resolved by the court that issued the ruling on applying coercive medical measures or by the court in the location where the measures are applied under the conditions provided in arts. 470 and 471.
[Art.501 amended by Law No.12-XVI dated 14.02.2008, in force as of 14.03.2008]

Article 502. Reinitiating a Proceeding against a Person for Whom a Coercive Medical Measure was Applied

(1) If the person for whom a coercive medical measure was applied because he/she developed a mental illness after the commission of the crime recovers and the recovery is confirmed by a medical commission, the court, based on the opinion of the medical commission, shall issue in line with arts. 469–471, a ruling revoking the coercive medical measure and shall resolve the issues related to sending the case file to the prosecutor to continue the criminal investigation or, as the case may be, to the respective court to hear the case.

(2) The duration of the stay in the medical institution shall be included in the term of punishment.

Article 503. Forced Treatment of Persons Suffering from Chronic Alcoholism or Drug Addiction

(1) Should the defendant suffer from alcoholism or drug addiction and the crime committed by him/her be related to this circumstance, the court, in addition to the punishment for the crime committed, may decide in line with art. 103 of the Criminal Code to order forced treatment.

(2) The termination of forced treatment shall be ordered upon a proposal by the respective medical institution, by the court that issued the sentence on forced treatment or by the court in the territorial jurisdiction in which this measure was applied.

Chapter III
PROCEDURE FOR PLEA BARGAINING

Article 504. General Notions

(1) Plea bargaining is an agreement between the prosecutor and the accused or, as the case may be, the defendant, who consents to plead guilty in return for a milder punishment.

(2) A plea agreement shall be executed in writing with the mandatory participation of the defense counsel, accused or defendant, if minor, less serious and serious crimes.

(3) The court may not participate in the plea bargaining discussions.

(4) The court shall be obliged to establish whether the plea agreement was signed in line with the law, voluntary, with participation of the defense counsel and whether there is sufficient

evidence confirming the accusation. Depending on these circumstances, the court may accept or reject the agreement.

(5) Plea bargaining may be initiated either by the prosecutor or by the accused/defendant and by his/her defense counsel.

(6) A plea agreement may be concluded any time after filing charges and prior to the beginning of a judicial inquiry.

(7) If the crime was committed with complicity, the case of the person who signed the plea agreement accepted by the court shall be split and a separate case file shall be created.
[Art.504 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 505. Initiating and Signing a Plea Agreement

(1) When initiating plea bargaining the prosecutor shall consider the following circumstances:
1) the desire of the accused/defendant to cooperate in the criminal investigation or the charging of other persons;
2) the attitude of the accused/defendant about his/her criminal activity and his/her criminal record;
3) the nature and seriousness of the charge filed;
4) the sincerity of the confession of the accused/defendant and his/her wish to accept responsibility for acts committed by him/her;
5) the free and voluntary will of the accused/defendant to plead guilty as promptly as possible and to accept a reduced proceeding;
6) the probability of the person's conviction in the respective case;
7) the public interest in a speedy trial involving less expense.

(2) Should the prosecutor initiate a plea bargaining procedure, he/she shall address the defense counsel and the accused/defendant with this initiative. The defense counsel shall discuss with the accused/defendant confidentially:
1) all the procedural rights of the accused/defendant including:
a) the right to a full, speedy and public trial and to the presumption of innocence in the course of the trial as long as his/her guilt is not legally proven in which all the necessary guarantees for his/her defense shall be secured;
b) the right to present evidence in his/her favor;
c) the right to request that the witnesses for the prosecution are heard under the same conditions as the witnesses for the defense;
d) the right to keep silent and not to be obliged to incriminate him/herself;
e) the right to make statements, to sign the plea agreement and to waive the statement admitting guilt;
2) all the aspects of the case, including the order bringing charges or, as the case may be, the indictment;
3) all the measures for defense of which he/she may avail in the respective case;
4) the maximum and minimum punishment which may be applied if pleading guilty;
5) the obligation of the accused/defendant if signing a plea agreement to swear before the court that he/she will make true statements about the crime he/she is charged with and that these statements can be used in a different trial of him/her for making false statements;
6) the guilt is not admitted because of violence or threats.

(3) A plea agreement shall include the answers to all the questions specified in para. (2) of this article and to the ones listed in art. 506 para. (3). The answers shall be entered on the agreement by the accused/defendant. The plea agreement shall be signed by the prosecutor, by the accused/defendant and by his/her defense counsel on every page of the agreement.

(4) The agreement signed by the prosecutor shall be approved by a higher-level prosecutor who shall verify if the law was observed in the course of signing the agreement.

(5) The defense counsel shall certify separately in writing the statement that the plea agreement was studied by him/her personally, that the procedure for signing it provided in this article was followed and that the accused/defendant pleaded guilty as a result of their preliminary confidential discussion.

(6) Prior to submitting a case with a plea bargain to court, the accused and his/her defense counsel shall be presented the materials in the case file to review in line with the provisions in arts. 293 and 294 and shall also be handed the indictment.
[Art.505 amended by Law No.264-XVI din 28.07.2006, in force as of 03.11.2006]

Article 506. Examining a Plea Agreement in Court

(1) The court shall examine a plea agreement in a public hearing except in cases when the hearing may be closed in line with the law.

(2) The hearing shall begin in line with the provisions in arts. 354, 356 and 361.

(3) The court shall establish by making relevant entries into the transcript of the hearing in addition to the data provided in art. 336, which shall duly apply, also the following:

1) if there is the statement by the defense counsel about the desire of the accused/defendant to sign a plea agreement;

2) if the position of the defense counsel corresponds to the position of the accused/defendant;

3) the fact that the court requests the defendant to swear in writing in line with art. 108 and that he/she shall make statements if he/she consents to take the oath;

4) if the defendant will be interrogated under oath on the following:

a) if he/she realizes that he/she is under oath and that if he/she makes false statements such could be subsequently used in a different trial of him/her for making false statements;

b) the last and first names, date, month, year and place of birth, domicile, family status and other personal data provided in art. 358;

c) if he/she was recently subjected to any treatment for any mental illness or drug or alcohol addiction. If yes, the defense counsel and the defendant shall be asked if the defendant is able to express and take his/her position;

d) if he/she is currently under the influence of drugs, medicine or alcohol of whatsoever a nature. If yes, the provisions of letter c) shall apply;

e) if he/she received the order bringing charges and the indictment and if he/she discussed them with his/her defense counsel;

f) if he/she is satisfied with the quality of the legal assistance provided by his/her defense counsel;

g) if following his/her discussion with the defense counsel, he/she wants to accept the plea bargain;

5) by examining the plea agreement the court shall also establish:

a) if the accused/defendant had the possibility to read and discuss with his/her attorney the agreement from the point of view of his/her position prior to signing it;

b) if this agreement represents an integral expression of the defendant's agreement with the state;

c) if the defendant understood the conditions of the agreement referring to his/her position;

d) if the accused/defendant received promises or assurances of a different nature with a view to influence him/her to confess and to plead guilty in the respective case;

e) if anyone tried to force the accused, defendant in whatsoever form to take the position to plead guilty in the respective case;

f) if the defendant admitted guilt voluntarily because he/she is guilty;

g) should the agreement refer to a serious crime, the defendant understands that he/she admits guilt in the commission of a serious crime;

h) if he/she reviewed the materials and evidence managed in the case;

6) the court shall notify the defendant about the following:

a) the maximum sanction provided by law and any mandatory minimum sanction for the respective crime;

b) that if a conditional punishment will be applied and that if he/she violates those conditions that he/she will serve the actual punishment;

c) that the court is entitled to decide that the defendant must compensate the injured party for any damage caused and must pay the judicial expenses;

d) that should the agreement be accepted, the defendant will be able to appeal the sentence only with reference to the punishment set and to procedural violations;

e) the fact that by signing the plea agreement the defendant shall be deprived of the right to a trial under general procedures and of the presumption of innocence provided in art. 66.

(4) Upon meeting the provisions of this article, the court shall ask the defendant if he/she upholds his/her position referred to in the plea agreement. Should the defendant uphold the plea agreement, he/she shall make statements before the court about committing the crime he/she is charged with and his/her attitude to the evidence attached to the case file. Should the defendant not uphold the plea agreement, he/she shall be entitled to waive his/her statement on the crime he/she is charged with. In such a case, the court shall decide to hear the case under general procedures.

(5) The transcript of the hearing conducted under this article shall be countersigned by the defendant on every page and the statement about the crime committed by him/her and the evidence attached to the case file shall be entered in line with the provisions in art. 337.

Article 507. Court Decision on Examining a Plea Agreement

(1) Should the court be convinced of the truthfulness of the answers given by the defendant in the hearing and conclude that that defendant pleaded guilty freely, voluntarily, consciously and without pressure or fear, it shall accept the plea agreement and admit the factual basis of the crime the defendant pleads guilty of.

(2) The court decision shall be entered into the transcript in the form of a ruling.

(3) Should the court reject the plea agreement, the ruling on the refusal to accept the plea agreement may be subject to cassation within 24 hours by the parties who signed the agreement, and they shall make a declaration thereon immediately after the ruling is

pronounced. Should the parties who signed the agreement declare after the ruling is pronounced that they will not appeal the respective ruling, the court shall decide to hear the case under general procedures in line with the provisions of this Code. Should the witnesses summoned appear and should it be possible to conduct the hearing, the court shall hear the case under the general procedures immediately.
[Art.507 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 508. Judicial Arguments if Plea Agreement Is Accepted

Should the court issue a ruling accepting a plea agreement the court shall proceed to argue the punishment. The judicial arguments shall be the speeches of the prosecutor, defense counsel and defendant who may repeatedly speak in form of replies.

Article 509. Issuing a Sentence in a Case with a Plea Agreement

(1) In a case with a plea agreement, the sentence shall be issued in line with the conditions provided by this Code with the exceptions in this article.

(2) The introductory part of the sentence, in addition to the data listed in art. 393, shall include a notation about hearing the case under a plea agreement.

(3) The descriptive part shall include:

1) a description of the prejudicial act acknowledged by the defendant and considered as proved specifying the manner of its commission, the form and degree of guilt, the reasons and consequences of the crime;

2) evidence presented by the prosecutor and accepted by the defendant on which the sentence is based;

3) specifications of circumstances mitigating or aggravating liability;

4) the legal qualification of the act the defendant is charged with;

5) reasons for the punishment set;

6) issues related to a conviction with a conditional suspension of the execution of punishment to be resolved if necessary;

7) reasons substantiating the court judgment on a civil action or on redress for material damage caused by the crime and on the judicial expenses.

(4) When setting the punishment it shall be individualized considering the maximum limit of the most severe punishment provided in criminal law for the respective crime reduced by one third by which the provisions in arts. 75–79 of the Criminal Code shall apply. The dispositive part of the sentence shall include the remarks provided in art. 395 which shall duly apply.

(5) When issuing the sentence, the court shall also resolve the issues specified in arts. 397 and 398.

(6) The sentence issued in line with this article may be subject to cassation only with regard to procedural errors and the punishment set.

(7) Cassation shall be heard by a higher court in line with the provisions in arts. 447 and 448. Should the court of cassation hearing the cassation filed in line with art. 507 para. (3) find that the ruling appealed is illegal, it shall decide to send the case to the court of first instance for rehearing.
[Art.509 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter IV
PROCEDURE FOR THE CONDITIONAL SUSPENSION OF A CRIMINAL INVESTIGATION AND EXEMPTION FROM CRIMINAL LIABILITY

Article 510. General Provisions

(1) A criminal investigation with regard to a person charged with a minor or less serious crime who admits his/her guilt, is not socially dangerous and may be re-educated without a criminal punishment may be conditionally suspended with a subsequent exemption from criminal liability in line with art. 59 of the Criminal Code.

(2) The provisions in para. (1) shall not apply to persons:
1) who have a criminal history;
2) who are dependent on alcohol or drugs;
3) who are officials who committed a crime abusing their positions;
4) who committed crimes against state security;
5) who did not offer redress for damage caused by the crime.

Article 511. Procedure for the Conditional Suspension of a Criminal Investigation

(1) Should the prosecutor find that the provisions in art. 510 may be applied to the accused, he/she shall issue an order conditionally suspending the criminal investigation for one year and shall assign one of the following obligations:
1) not to leave the locality of his/her domicile other than under conditions set by the prosecutor;
2) to notify the criminal investigative body about any change of domicile;
3) not to commit crimes or contraventions;
4) to continue his/her work or studies.

(2) The order issued under para. (1) shall be confirmed by a higher-level prosecutor.

Article 512. Solutions after the Expiry of the Term for the Conditional Suspension of a Criminal Investigation

(1) If the defendant observed during the entire course of a conditional suspension of the criminal investigation the conditions set by the prosecutor, the prosecutor shall issue an order exempting the person from criminal liability.

[Par. (2) excluded by Law No. 292-XVI dated 21.12.2007, in force as of 08.02.2008]

(3) If the defendant did not observe the conditions set by the prosecutor, the prosecutor shall send the case and the indictment to court under general procedures.
[Art.512 amended by Law No.292-XVI dated 21.12.2007, in force as of 08.02.2008]

Chapter V
PROCEDURE FOR INVESTIGATING AND HEARING CASES OF FLAGRANT CRIMES

Article 513. Flagrant Crime

(1) Flagrant shall be the crime discovered at the moment of its commission.

(2) Flagrant shall also be the crime when the perpetrator is pursued by the victim, an eye witness or other persons immediately after its commission or is caught near the place of the commission of the crime with weapons, tools or any other objects giving cause to assume that he/she participated in the crime.

Article 514. Cases of Application

(1) The procedure provided in this Chapter in conjunction with the general provisions of this Code, shall apply to minor, less serious or serious flagrant crimes.

(2) The procedure provided in this article shall not apply to crimes committed by juveniles and to cumulative crimes, provided that one or several crimes committed by the same person are not flagrant.

Article 515. Establishing a Crime

(1) In the case of a flagrant crime, the criminal investigative body shall prepare the transcript describing the established facts related to the act committed, the statements of the suspect if he/she agreed to make such statements, and the statements of other persons heard. As the case may be, other evidence may be managed and shall be described in the transcript.

(2) The transcript shall be prepared and brought to the knowledge of the persons heard in line with the provisions in arts. 260 and 261 and shall be presented together with other materials to the prosecutor immediately or no later than within 24 hours from the moment issued.
[Art.515 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 516. Verifying Criminal Investigative Materials

(1) Upon receipt of criminal investigative materials, the prosecutor shall verify their compliance with legal provisions and, if evidence is sufficient shall file charges against the perpetrator in line with the provisions in arts. 281 and 282 without issuing an indictment and shall send the case to court.

(2) Should the prosecutor consider that there is not enough evidence to file charges against a person, he/she shall decide to continue the criminal investigation specifying actions to be performed and shall set limited timeframes not exceeding 10 days unless the criminal investigative acts need a longer period for execution.

(3) Should the prosecutor decide to continue the criminal investigation and should the perpetrator be detained, the prosecutor shall also decide on the preventive measure to be applied in line with this Code.
[Art.516 amended by Law No.292-XVI dated 21.12.2007, in force as of 08.02.2008]

Article 517. Hearing a Case on a Flagrant Crime

(1) Cases on flagrant crimes shall be set for trial within five days from the date of receipt of the case file. The presence of the defendant, his/her defense counsel, the injured party and witnesses at the hearing shall be ensured by the prosecutor.

(2) The case shall be heard under the general procedures provided in this Code, while if a plea agreement was signed, the respective procedure shall apply. If the parties request in a hearing a timeframe to prepare the defense or to present additional evidence as per the provisions in art. 327, such a timeframe shall not exceed 10 days.

(3) Should the case be sent to court together with the detainee to whom the preventive measure is applied, the court which shall hear the case, upon the motion of the prosecutor, shall also decide on a preventive measure as the case may be.
[Art.517 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 518. Court Judgment

(1) When hearing a case on a flagrant crime, the court shall issue a judgment on the day the judicial inquiry is completed or within the next three days at the most.

(2) The judgment shall be edited within 24 hours.

Article 519. Appeal and Cassation

Appeal or, as the case may be, cassation against court judgments issued on cases involving flagrant crimes may be filed and shall be heard under the general procedures provided by this Code.
[Art.519 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Chapter VI
PROCEDURES FOR CRIMINAL INVESTIGATIONS AND HEARING CASES INVOLVING CRIMES COMMITTED BY LEGAL ENTITIES

Article 520. General Provisions

A criminal investigation and hearing cases involving crimes committed by legal entities shall comply with the usual procedures with additions and exceptions provided in this Chapter.

Article 521. Criminal Investigation of a Legal Entity

(1) If a legal entity is to be held criminally liable, a criminal investigation shall be conducted with the participation of its legal representative.

(2) Should a criminal investigation initiated against a legal entity be conducted for the same act or for related acts and with regard to its legal representative, the criminal investigative body shall appoint a representative of the legal entity to represent it in the capacity of an accused.

(3) The legal representative or, as the case may be, the appointed representative of the legal entity shall represent it in the course of procedural actions provided in this Code.

(4) Only coercive measures applicable to a witness may be applied to the legal representative or, as the case may be, to the appointed representative of the legal entity subject to criminal investigation.

Article 522. Territorial Competence

(1) If crimes are committed by legal entities the territorial competence shall be determined by:

1) the place of the commission of the crime;
2) the place the perpetrator was detected;
3) the place of the domicile of a perpetrator who is an individual;
4) the venue of the legal entity;
5) the place of domicile or the venue of the victim.

(2) The provisions in arts. 40 and 42 shall correspondingly apply to hearing cases on crimes committed by legal entities.

Article 523. Judicial Control of a Legal Entity

(1) In order to ensure the efficient unfolding of a criminal proceeding and upon a motion of the prosecutor, the investigative judge or as the case may be the court, if it deems it necessary, may decide to place a legal entity under judicial control.

(2) By deciding on the measure provided in para. (1), the legal entity may be enjoined to meet one or several of the following obligations:

1) to deposit bail set by the investigative judge or by the court, the amount of which may not be less than 1000 conventional units;
2) not to practice certain activities if the crime was committed in the course of practicing or in relation to practicing these activities;
3) not to issue certain checks or to use payment cards.

(3) The ruling of the investigative judge or, as the case may be, of the court on placing a legal entity under judicial control may be appealed within the timeframe and in the manner provided in arts. 308–311.

Chapter VII
PROCEDURE FOR REDRESSING DAMAGE CAUSED BY THE ILLEGAL ACTIONS OF CRIMINAL INVESTIGATIVE BODIES AND THE COURTS

Article 524. General Provisions

Persons who, in the course of criminal proceedings, were caused material or moral damage by illegal actions of criminal investigation bodies or the courts shall be entitled to equitable compensation in line with the provisions of the legislation on the manner for redressing damage caused by the illegal actions of criminal investigation bodies or the courts.

Article 525. Action Claiming Damage

(1) An action claiming damage may be filed within one year of the date the court judgment or the criminal investigative body's order became final or, as the case may be, irrevocable by which the illegal nature of the respective procedural action, the criminal investigation or the conviction that caused the damage was established.

(2) An action claiming damage may be filed with the court in the territorial jurisdiction in which the person caused the damage or, as the case may be, his/her successor's domicile in

the manner provided for in civil procedures. Actions shall be filed against the state represented by the Ministry of Finance.

(3) An action claiming damage shall not be subject to a state fee.

Chapter VIII
PROCEDURE FOR RECOVERING MISSING JUDICIAL DOCUMENTS

Article 526. Establishing Missing Judicial Documents

(1) If a criminal case file or certain documents from the case file are missing, the criminal investigative body or the president of the court where the respective case file was shall prepare the transcript stating they are missing, the circumstances under which they went missing and measures undertaken to find them.

(2) Based on the transcript stating that a criminal case file or documents from the case file are missing, the case file or the documents that are missing shall be replaced or recovered.

(3) Missing criminal case files or documents from case files shall imply their loss, destruction, damage or theft.

Article 527. Object of the Procedure to Recover Missing Criminal Case Files or Documents from Case Files

(1) Should it be necessary to recover missing criminal case files or the documents from case files if they can be recovered under general procedures, the prosecutor in an order or the court in a ruling shall decide to replace or to recover the case file or the documents missing.

(2) The prosecutor or, as the case may be, the court examining the respective case shall be competent to decide on replacing or recovering missing case files or documents from case files, while for documents or files missing in a case finally solved, the court keeping the case file in its archive shall decide.

(3) The court ruling shall be issued in the absence of the parties unless the court considers it necessary to summon them. The ruling shall not be subject to any means of appeal.

Article 528. Procedure for Recovering Missing Criminal Case Files or Documents from Case Files

(1) Replacing or recovering missing criminal case files or documents from case files shall be performed by the criminal investigative body or, as the case may be, by the court that ordered replacement or recovery.

(2) If the missing files were noted by any criminal investigative body or any court other than the one that ordered replacement or recovery, the criminal investigative body or the court that established that they are missing shall send to the competent criminal investigative body or the competent court all the materials necessary for replacing or recovering the missing case files or documents.

Article 529. Replacing Missing Documents

(1) Missing documents shall be replaced if there are official copies thereof. The criminal investigative body or the court shall undertake measures to obtain the respective copies.

(2) The copy obtained shall replace the original document until it is found.

(3) The person who submitted the official copy shall be handed a certified copy thereof.

Article 530. Recovering Missing Documents

(1) If there is an official copy of a missing document, it shall be recovered. A criminal case file shall be recovered by recovering the documents contained therein.

(2) Any sources of evidence may be used for recovering a case file.

(3) If to recover a case file it is necessary to use sources of evidence the court cannot manage, it shall request that the prosecutor undertake the measures necessary to recover the case file.

(4) The result of recovering a missing case file or document shall be established in an order of the prosecutor or a ruling of the respective court for which, as the case may be, the parties shall be summoned.

(5) The judgment on recovery may be subject to cassation.

Chapter IX
INTERNATIONAL LEGAL ASSISTANCE ON CRIMINAL MATTERS

Section 1
General Provisions on International Legal Assistance on Criminal Matters

[Section in version of Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 531. Legal Regulations on International Legal Assistance

(1) Relationships with foreign countries or international courts related to legal assistance on criminal matters shall be regulated by this Chapter and the provisions of the Law on International Legal Assistance on Criminal Matters. The provisions of the international treaties to which the Republic of Moldova is party and other international obligations of the Republic of Moldova shall have precedence over the provisions of this Chapter.

(2) If the Republic of Moldova is a party to several international acts on legal assistance also signed by the state from which the legal assistance is requested or by the state requesting it, and if there are discrepancies or incompatibilities between the norms of these acts, the provisions of the treaty ensuing the more beneficial protection of human rights and freedoms shall apply.

(3) The Ministry of Justice may decide not to execute a court judgment accepting international legal assistance if fundamental national interests are being discussed. This

authority shall be exercised in view of respecting the rights of the parties in the proceedings by executing the judgments pronounced in their favor.
[Art.531 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]
[Art.531 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 532. Manner for Transmitting Requests for Legal Assistance

Requests for international legal assistance on criminal matters shall be filed via the Ministry of Justice or the General Prosecutor's Office directly and/or via the Ministry of Foreign Affairs of the Republic of Moldova, unless a different manner of filing requests is provided based on reciprocity.
[Art.532 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 533. Volume of Legal Assistance

(1) International legal assistance may be requested or provided in the performance of certain procedural activities provided in the criminal procedural legislation of the Republic of Moldova and of the respective foreign state in particular:

1) notifying individuals or legal entities abroad about procedural acts or court judgments;

2) hearing persons as witnesses, suspects, accused, defendants, civilly liable parties;

3) on-site investigations, searches, seizures of objects and documents and their transmission abroad, sequestration, confrontations, presenting for identification, identification of telephone subscribers, wiretapping, expert reports, confiscation of goods obtained from the commission of crimes and other criminal investigative actions provided by this Code;

4) summoning witnesses, experts or persons pursued by criminal investigative bodies or by the court;

5) taking over the criminal investigation upon the request of a foreign state;

6) searching for and extraditing persons who committed crimes or to serve a punishment depriving them of liberty;

7) acknowledging and executing foreign sentences;

8) transferring convicts;

8^1) submitting information on criminal histories;

9) other actions not contradicting this Code.

(2) Preventive measures shall not constitute the object of international legal assistance.
[Art.533 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 534. Rejecting International Legal Assistance

(1) International legal assistance may be rejected if:

1) the request refers to crimes considered in the Republic of Moldova political crimes or crimes related to such crimes. The rejection shall not be admitted if a person is suspected, accused or was convicted for the commission of certain acts provided in arts. 5–8 of the Rome Statute of the International Criminal Court;

2) the request refers to an act exclusively constituting a violation of military discipline;

3) the criminal investigative body or the court to which the request for legal assistance was addressed considers that its execution is of a nature to affect the sovereignty, security or public order of the state;

4) there are grounds for believing that the suspect is being criminally pursued or punished due to his/her race, religion, citizenship, association with a certain group or certain political beliefs, or if his/her situation will be exacerbated for the aforementioned reasons;

5) it is proven that the person will not have access to a fair trial in the requesting state;

6) the respective act is punished by death as per the legislation of the requesting state and the requesting state provides no guarantee in view of not applying or not executing capital punishment;

7) in line with the Criminal Code of the Republic of Moldova the act or acts invoked in the request do not constitute a crime;

8) in line with national legislation the person may not be subject to criminal liability.

(2) Any rejection of international legal assistance shall be reasoned.

[Art.534 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

[Art.534 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 535. Expenses Related to the Provision of Legal Assistance

Expenses related to the provision of legal assistance shall be born by the requesting party in the territory of its state, unless a different manner in view of covering the expenses is set out under conditions of reciprocity or by an international treaty.

Section 1[1]
Rogatory Commission

[Title introduced by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 536. Approach by a Rogatory Commission

(1) A criminal investigative body or a court, if it considers it necessary to perform a procedural action on the territory of a foreign state, shall approach with a rogatory commission the criminal investigation body or the court of the respective state or an international criminal court in line with an international treaty to which the Republic of Moldova is a party or by diplomatic channels under conditions of reciprocity.

(2) Conditions of reciprocity shall be confirmed by a letter in which the Minister of Justice or the Prosecutor General undertake, on behalf of the Republic of Moldova, to provide legal assistance to the foreign state or to the international criminal court in procedural actions guaranteeing the procedural rights provided by national law of the person in whose regard the assistance is rendered.

(3) A rogatory commission in the Republic of Moldova shall be filed by the criminal investigative body with the Prosecutor General or by the court with the Minister of Justice to be transmitted for execution to the respective state.

(4) The rogatory commission and the attached documents shall be prepared in the state language and translated into the language of the requested state or into any other language, in line with the provisions of or reservations to the applicable international treaty.

[Art.536 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 537. Content and Form of the Rogatory Commission

(1) The rogtary letter shall be made in writing and shall include:

1) the name of the body addressing the letter;

2) the name and address, if known, of the institution to which the letter is sent;

3) the international treaty or reciprocity agreement based on which the assistance is requested;

4) reference to the criminal case in relation to which legal assistance is requested, information about the factual circumstances in which the actions were committed and their legal qualification, the text of the respective article of the Criminal Code of the Republic of Moldova and data about the damage caused by the respective crime;

5) data about the persons in whose regard the rogatory commission is requested including about their procedural capacity, date and place of birth, citizenship, domicile, occupation, and for legal entities the name and address and the last and first names and addresses of the representatives of these entities, if necessary;

6) the object of the rogatory commission and the data necessary to execute it; a description of circumstances that will be established; a list of documents, material evidence and other requested evidence; circumstances in relation to which the evidence is to be managed and the questions to be addressed to the persons to be heard;

7) the date when a reply to the rogatory commission is expected and as the case may be, the request that a representative of a criminal investigative body of the Republic of Moldova attend the respective procedural actions;

(1^1) The rogatory commission shall have attached the procedural acts necessary to conduct the criminal investigative actions, drafted in line with the provisions of this Code.

(2) The rogatory commission and the attached documents shall be signed and confirmed by the official stamp of the competent requesting institution.

[Art.537 completed by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]
[Art.537 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 538. Validity of a Procedural Act

The procedural act drafted in a foreign country in line with the provisions of the law of that country shall be valid for the criminal investigative bodies and the courts of the Republic of Moldova.

[Art.538 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 539. Summoning Witnesses, Experts or Persons Wanted Who Are outside the Borders of the Republic of Moldova

(1) Witnesses, experts or persons wanted who are outside the borders of the Republic of Moldova, may be summoned by a criminal investigative body for the purpose of certain procedural actions to be performed on the territory of the Republic of Moldova. In this case, the summons may not include warnings of forcible presentation to a law enforcement body.

(2) A witness or an expert shall be summoned in line with art. 536 paras. (3) and (4).

(3) Procedural actions involving persons summoned under this article shall be performed in line with this Code.

(4) Witnesses, experts or persons wanted, irrespective of their citizenship, who appear before the body that summoned them in line with this article may be neither pursued nor detained nor subjected to any limitation of their individual freedom in the territory of the Republic of Moldova for acts or convictions preceding their crossing the state border of the Republic of Moldova.

(5) The immunity provided in para. (4) shall terminate if the person summoned does not leave the territory of the Republic of Moldova within 15 days from the date the respective body summoned him/her and informed him/her that his/her presence was not needed any longer or who subsequently returned to the Republic of Moldova. This timeframe shall not include the time during which the person summoned could not leave the territory of the Republic of Moldova due to reasons outside his/her will.

(6) Summoning a person detained in the territory of a foreign state shall be performed in line with the provisions of this article, provided that the person temporarily transferred to the territory of the Republic of Moldova by the respective body of the foreign state in order to perform the actions specified in the transfer request, is transferred back within the timeframe specified in the request. The conditions of transfer or refusal to transfer shall be regulated by the international treaties to which the Republic of Moldova and the requested state are parties or shall be based on written obligations under conditions of reciprocity.

(7) The witnesses or experts summoned shall be entitled to request compensation for their transport, accommodation expenses and per diems incurred due to their justified absence from office.

(8) A witness heard in line with the provisions in this article shall benefit, as the case may be, from protection under the law.
[Art.539 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 540. Executing in the Republic of Moldova a Rogatory Commission Requested by a Foreign Body

(1) A criminal investigative body or the court shall execute the rogatory commissions requested by the respective foreign bodies based on the international treaties to which the Republic of Moldova and the requesting state are parties or under the reciprocity conditions confirmed in line with art. 536 para. (2).

(2) The rogatory commission shall be sent by the General Prosecutor's Office to the criminal investigative body or, as the case may be, by the Ministry of Justice to the court from the place where the requested procedural action is to be performed.

[Par.3 art.540 excluded by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

(4) When executing the rogatory commission the provisions of this Code shall apply; however, upon a motion of the requesting party, a special procedure provided in the legislation of the foreign state may be requested in line with the respective international treaty or under conditions of reciprocity provided that it does not conflict with national legislation and the international obligations of the Republic of Moldova.

(5) Representatives of the foreign state or of an international court may attend the execution of the rogatory commission provided it is stipulated in the respective international treaty or by a written obligation under conditions of reciprocity. In such a case, upon the request of the requesting party, the body assigned to execute the rogatory commission shall inform the requesting party about the time, place and term of execution of the rogatory commission, ensuring, thus, the presence of the interested party.

(6) If the address of the person in whose regard the rogatory commission is requested, is incorrect the body obliged to execute it shall undertake the respective measures to identify the address. If it is impossible to identify the address, the requesting party shall be notified thereof.

(7) Should it be impossible to execute the rogatory commission, the documents received shall be returned to the requesting party through the institutions from which it received them in which the reasons preventing the execution shall be specified. The rogatory commission and the attached documents shall also be returned if it is refused based on art. 534.
[Art.540 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 540[1]. Searches, Seizures, Return of Objects or Documents, Sequestration and Confiscation

Rogatory commissions requesting search seizure or the return of objects or documents, and sequestration or confiscation shall be executed in line with the legislation of the Republic of Moldova.
[Art.540[1] introduced by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Section 2
Extradition

Article 541. General Conditions for Extradition

(1) The Republic of Moldova may address a foreign state with a request for extradition of a person in whose regard a criminal investigation was conducted in connection with crimes for which criminal law provides for the maximum punishment of at least one year of imprisonment or any other more severe punishment or in whose regard a sentence was issued convicting him/her to imprisonment for at least six months in case of extradition for execution, unless international treaties provide otherwise.

(2) A request for extradition shall be made based on any international treaty to which the Republic of Moldova and the requested state are parties or based on written obligations under conditions of reciprocity.

(3) If the person whose extradition is requested is under criminal investigation, the General Prosecutor's Office shall be the authority competent to examine all the necessary materials and to file the request for extradition. If the person whose extradition is requested has been convicted, the Ministry of Justice shall be the competent authority. The request for extradition shall be transmitted directly to the competent body of the requested state or via diplomatic channels if so provided in an international treaty.

(4) Extradition shall be allowed only if as a result of the commission of a crime an arrest warrant or any other document of similar legal force is presented or on the decision of the competent authority of the requesting state which is executable and which orders the detention of the person whose extradition is requested and describes the applicable laws.
[Art.541 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 542. Request for Extradition and Attached Documents

(1) A request for extradition shall be prepared in the state language and translated into the language of the requested state or into any other language in line with the provisions of or reservations to the applicable international treaty.

(2) A request for extradition shall include:

a) the name and address of the requesting institution;

b) the name and address of the institution requested;

c) the international treaty or the reciprocity agreement based on which extradition is requested;

d) the last, first names and patronymic of the person whose extradition is requested, information about his/her date and place of birth, citizenship and domicile;

e) a description of the acts imputed to the person, specifications of the place and date of their commission, their legal qualification, information about the material damage caused;

f) the place of detention of the person in the requested state.

(3) To a request for extradition shall be attached the following documents in the form of legalized copies, signed and sealed by the criminal investigative body and accompanied by their translation in line with the provisions in para. (1):

a) the order bringing charges or the sentence and description of all the acts for which extradition is requested, the date and place of commission of the crime, legal qualification;

b) the arrest warrant or, as the case may be, the court ruling on the preventive measure;

c) a description of applicable laws;

d) the identity card or personal card of the person, or any other document establishing his/her identity and citizenship.

(4) In addition, to the request for the extradition of a convict shall be attached data on the unexecuted part of his/her punishment.

(5) Upon the request of the authorized body of the requested state, the General Prosecutor's Office shall provide any other additional information that could serve as evidence confirming the charges brought against the person whose extradition is requested.

[Art.542 in version of Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 543. Rule of Specialty

(1) A person extradited by a foreign state may not be held criminally liable and convicted, subjected to the execution of a punishment and transferred to a third state for punishment for a crime committed by him/her prior to extradition for which he/she was not extradited if there is no consent in this regard of the foreign state that extradited him/her.

(2) Extradition shall be granted only if the following are secured:

1) the person will not be punished in the foreign state without the consent of the Republic of Moldova for a reason that appeared prior to his/her extradition, except for the crime for which extradition is granted, and his/her personal freedom will not be limited, and he/she will not be persecuted through measures that can be also undertaken in his/her absence;

2) the person will not be extradited, transferred or deported to a third state without the consent of the Republic of Moldova;

3) the person will be able to leave the territory of the requesting state after the closure of the procedure for which his/her extradition was granted.

(3) The requesting state may waive the rule of specialty only if:

1) the Republic of Moldova consents to conducting the criminal prosecution or to conveying for execution the sentence or another sanction regarding a facultative crime or to extradite, transfer or deport the person to any other state;

2) the person does not leave the territory of the requesting state for 45 days after the completion of the procedure for which his/her extradition was granted although he/she had the possibility to do so;

3) the person, after leaving the territory of the requesting state, returned or was sent back by a third state;

4) simplified extradition is granted.

(4) The provisions of this article shall not apply to cases of crimes committed by the extradited person after his/her extradition.

[Art.543 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 544. Executing a Request for the Extradition of Persons who are on the Territory of the Republic of Moldova

(1) A foreign citizen or stateless person under criminal investigation or convicted in a foreign state for the commission of an act subject to punishment in that state may be extradited to this foreign state upon the request of the competent authorities, in view of prosecuting or executing the sentence pronounced for the act committed or of pronouncing a new sentence.

(2) A foreign citizen or stateless person convicted in a foreign state for the commission of an act subject to punishment in that state may be extradited to the foreign state that has taken over the execution upon the request of the competent authorities of the state, in view of executing the sentence pronounced for the act committed or of pronouncing a new sentence.

(3) Extradition for the purpose of criminal investigation shall be granted only if the act is punishable under the legislation of the Republic of Moldova and the maximum punishment is at least one year of imprisonment or if, after a similar inversion of things, the act would be subject to such a punishment under the legislation of the Republic of Moldova.

(4) Extradition for the purpose of executing a sentence shall be granted only if extradition under para. (3) is admissible and if a punishment depriving liberty is to be executed. Extradition shall be granted if the term of detention to be served or the cumulation of the detention terms to be executed is of at least six months unless an international treaty provides otherwise.

(5) If the extradition of a person is requested by several states either for the same act or for different acts, the Republic of Moldova shall decide on extradition considering all the circumstances, including the seriousness and place of commission of the crimes, the respective data from the requests, the citizenship of the person solicited and the possibility of subsequent extradition to another state.

(6) If the Prosecutor General or, as the case may be, the Minister of Justice considers that the person solicited by the foreign state or international court may not be extradited, he/she shall refuse extradition in a reasoned decision, and if considering that the person may be extradited he/she shall make a motion to the court within the territorial jurisdiction of the Ministry of Justice and shall attached thereto the request and the documents of the requesting state.

(7) The motion for extradition shall be resolved by the investigative judge from the court located in the territorial jurisdiction of the Ministry of Justice with the participation of the prosecutor, a representative of the Ministry of Justice (if convicts are to be extradited), the person whose extradition is requested and his/her defense counsel selected or appointed in line with the Law on the Legal Assistance Guaranteed by the State. The motion for the extradition of an arrestee shall be resolved urgently. A motion for extradition shall be resolved in the manner provided by law. The court is not competent to pronounce on the propriety of the investigation or conviction for which the foreign authority requests extradition.

(8) Should the court find that all the conditions for extradition are met, it shall admit in a judgment the request for extradition and shall decide to keep the person under preventive arrest until extradition. Should the court find that the conditions for extradition are not met, it shall reject the request and shall order the release of the person whose extradition is requested. The judgment shall be edited within not more than 24 hours from pronouncement and shall be transmitted to the General Prosecutor's Office or to the Ministry of Justice.

(9) The court judgment on extradition may be subject to cassation by the prosecutor and by the extradited person or his/her attorney within 10 days from pronouncement to the Chisinau Court of Appeals. Cassation shall be heard in line with the provisions of Section 2, Chapter IV, Title II of the Special Part of this Code. The final judgment of the investigative judge shall be sent to the General Prosecutor's Office and to the Ministry of Justice for execution or for the information of the requesting state.
[Art.544 amended by Law No.89-XVI dated 24.04.2008, in force as of 01.07.2008]
[Art.544 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 545. Simplified Procedure for Extradition

(1) Upon the request of the competent authority of a foreign state to extradite a person, to provisionally arrest him/her in view of extradition or to extradite a foreign citizen or stateless person in whose regard an arrest warrant for extradition was issued may be granted without following the formal extradition procedures if the person consents to simplified extradition and his/her consent is confirmed by the court. If an arrestee consents to his/her extradition under the simplified procedure, submission of the official request for extradition and the documents specified in art. 542 of this Code shall not be necessary.

(2) The requirements in art. 543 shall not be invoked if the foreign citizen or stateless person, upon being informed of his/her rights, expressly waives his/her right to application of the rule of specialty and this fact is confirmed by the court.

(3) The investigative judge from the competent court shall examine in a hearing in which the prosecutor, the person whose extradition is required and his/her attorney shall participate, the identification details of the extraditable person, shall inform him/her about his/her right to a simplified procedure of extradition and about the legal effects thereof, and shall record the statement made which shall be signed by all participants in the hearing.

(4) The consent given under paras. (1) or (2) may not be revoked once confirmed by the court.
[Art.545 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 546. Refusal to Extradite

(1) The Republic of Moldova shall not extradite its own citizens and persons granted the right to asylum.

(2)) Extradition shall also be refused if:

1) the crime was committed in the territory of the Republic of Moldova;

2) a national court or a court of a third state has already pronounced in regard of the respective person a judgment of conviction, acquittal or the termination of the criminal proceeding for the crime for which extradition is requested, or the criminal prosecution body has issued an order on the termination of the proceeding, or national bodies are conducting a criminal investigation of this act;

3) the criminal liability limitation period has expired in line with the national legislation or amnesty was granted;

4) in line with the law, a criminal investigation may be initiated only based on a preliminary complaint of a victim and there is no such complaint;

5) the crime for which extradition is requested is considered in national law to be a political crime or an act related to such a crime;

6) the Prosecutor General, the Minister of Justice or the court resolving the issue of extradition has serious reasons to believe that:

a) the request for extradition was addressed with a view to pursuing or punishing a person for reasons of race, religion, sex, nationality, ethnic origin or political opinions;

b) there is a risk that the situation of the person may be exacerbated due to the reasons specified in letter a);

c) if the person is extradited, he/she will be subject to torture, inhumane or degrading treatment or will not have access to a fair trial in the requesting state;

7) the person whose extradition is requested was granted the status of a refugee or political asylum;

8) the state requesting extradition does not ensure reciprocity in extradition.

(3) If the act for which extradition is requested is punished by law in the requesting state by capital punishment, the extradition of the person may be refused if the requesting state does not provide guarantees, construed as sufficient, that capital punishment will not be applied to the extraditable person under criminal investigation or convicted.

(4) If the Republic of Moldova refuses extradition, upon the request of the requesting state, the possibility shall be examined to take over the criminal investigation in regard of the person who is a citizen of the Republic of Moldova or a stateless person.

[Art.546 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]
[Art.546 completed by Law No. 235-XVI dated 08.11.2007, in force as of 07.12.2007]
[Art.546 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 547. Arresting a Person in View of Extradition

(1) Upon receipt of a request for extradition, the General Prosecutor's Office or, as the case may be, the Ministry of Justice will immediately undertake measures under the conditions of this Code for the preventive arrest of the person whose extradition is requested. The term of the person's preventive arrest may not exceed 180 days from the moment of detention until transfer to the requesting party.

(1^1) The preventive arrest of the extraditable person may be replaced by any other preventive measure upon the request of the prosecutor or by the court ex officio in line with the procedural legislation in force if:

a) the health of the person confirmed by a medical certificate prevents him/her from detention;

b) the person and his/her family have their permanent domicile in the Republic of Moldova and there are no grounds to consider that he/she will evade extradition.

(2) In emergencies, the person whose extradition is requested may be arrested prior to receipt of the request for extradition based on an arrest warrant issued for a term of 18 days which may be extended for up to 40 days based on a motion of the General Prosecutor's Office or upon the request of a foreign state or international court, provided that the request contains data on the arrest warrant or on the final judgment issued with regard to this person and the assurance that the request for extradition will be subsequently sent. The request shall refer to the crime for which extradition will be requested, the date and place where it was committed and, to the extent possible, the distinctive features of the person sought. The request for arrest may be addressed by mail, telegraph, telex, fax, or any other means of conveying written messages. The requesting authority shall be informed as soon as possible about the results of the examination of its request.

(3) The person arrested under the conditions in para. (2) shall be released if within 18 days from arrest the court deciding on the admissibility of the person's arrest does not receive the request for extradition and the respective documents. This term may be extended upon the request of the foreign state or international court; however, it shall not exceed 40 days from arrest. Provisional release is possible any time, provided that other measures aimed at avoiding the person's whose extradition is requested from evading prosecution may be applied to him/her.

(4) The arrest of the person in view of extradition, the extension of the arrest term and the appeal against the respective judgments shall be performed in line with this Code.

(5) The decision on the admissibility of extradition shall be reasoned and include explanations of the manner and timeframe for appealing it. The Prosecutor General, the person whose extradition is requested and his/her defense counsel shall be sent a copy of the respective decision.

(6) The release of the person arrested under the conditions of this article shall not prevent a new arrest and extradition if the request for extradition is subsequently received.

[Art.547 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]
[Art.547 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 548. Postponing Extradition and Temporary Extradition

(1) If the person whose extradition is requested is charged in the Republic of Moldova in a proceeding at the stage of criminal investigation or case hearing, or if he/she was convicted for a crime other than the crime for which extradition is requested, the execution of extradition may be postponed until completion of the criminal proceeding or until the complete execution of the punishment set by the national court or until release prior to the expiry of the term of punishment.

(2) If the postponement of extradition could lead to the expiry of the limitation period of the criminal case or could cause serious difficulties in establishing facts, the person may be extradited temporarily based on a reasoned requested under the conditions to be determined jointly with the requesting party.

(3) A temporarily extradited person shall be returned immediately upon completion of the procedural actions for which he/she was extradited.
[Art.548 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 549. Handover of an Extradited Person

(1) If the extradition of a person is accepted in court, after its judgment becomes effective the Prosecutor General or, as the case may be, the Minister of Justice shall inform the requesting state or the international court about the date and place of the extradited person's handover and about the duration of the executed detention in view of extradition.

(2) If the requesting party does not receive the extradited person at the date set for the handover and if postponement was not required, the person may be released upon the expiry of 15 days from this date and shall anyway be released upon the expiry of 30 days calculated from the date set for the handover if the international treaties to which the Republic of Moldova is a party do not provide for more favorable conditions for this person.

(3) The extradition of a person for the same act upon the expiry of the terms specified under this article may be refused.

(4) If there are *force-majeure* circumstances preventing the handing over or receiving of the extraditable person, the interested state shall inform thereof the other state. Both states shall agree on a new date for the handover in line with the provisions of this article.
[Art.549 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 549[1]. Transit

(1) The Republic of Moldova may allow an extradited person to transit its territory if a crime that would allow extradition in line with the legislation of the Republic of Moldova is at issue. Transit shall not be allowed if the person is a citizen of the Republic of Moldova.

(2) Transit shall be granted in the manner provided in art. 545 para. (1), upon the request of the interested state with at least the preventive arrest warrant or the imprisonment punishment execution warrant that justified the extradition attached.

(3) A request for transit shall be resolved by the General Prosecutor’s Office or, as the case may be, by the Ministry of Justice.

(4) The decision of the General Prosecutor’s Office or the Ministry of Justice shall be immediately communicated to the requesting state or, as the case may be, to the Ministry of Foreign Affairs in view of organizing the supervision of the extradited person’s transit.

(5) In the case of transit by air when no landing on the territory of the Republic of Moldova is intended, a notification transmitted by the competent authority of the requesting state to the Ministry of Justice shall be sufficient.

(6) An extradited person in transit shall be kept under preventive arrest for the duration of his/her stay in the territory of the Republic of Moldova.
[Art.549[1] introduced by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 549[2]. Requesting Extradition by the Republic of Moldova

Should the Republic of Moldova request extradition from the competent authorities of other states, the provisions of international treaties to which the Republic of Moldova is a party, arts. 541–543, 546 para. (4) and 549[1] of this Code and the provisions of national procedural legislation shall correspondingly apply.
[Art.549[2] introduced by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 550. Transmitting Objects

(1) Upon the request of the requesting party in the manner provided in this Chapter and to the extent allowed by national legislation, subject to capture and transmission shall be:

1) objects of eventual importance as evidence in a criminal case for which extradition is requested;

2) income originating from the crime for which extradition is requested and the objects in the possession of the person at the moment of arrest or subsequently discovered.

(2) The objects and the income specified in para. (1) may be transmitted even if the extradition may not take place due to the death of the person or if he/she evades trial.

(3) If the requested objects are needed as evidence in a different case in a national criminal proceeding, their transmission may be postponed until the proceeding is completed, or they may be temporarily transmitted subject to return.

(4) The rights over these objects or income shall belong to the Republic of Moldova and they shall be transmitted to the requesting party subject to a speedy completion of the criminal investigation and no expenses, and subject to their subsequent return.

(5) Objects and other valuables shall be transmitted only based on a final court judgment pronounced by a competent court.
[Art.550 completed by Law No. 48-XVI dated 07.03.2008, in force as of 15.04.2008]

Section 3
Transfer of Convicts

Article 551. Grounds for Transferring Convicts

(1) Convicts shall be transferred based on the international treaty to which the Republic of Moldova and the respective state are parties and under the condition of reciprocity set out in a written agreement between the Ministry of Justice of the Republic of Moldova and the respective institution of the foreign state.

(2) The following may be grounds for transferring convicts:

1) request of a person convicted to imprisonment by a court in the Republic of Moldova to be transferred to another state in view of executing the punishment;

2) request of a person convicted to imprisonment by a foreign court to be transferred to the Republic of Moldova in view of executing the punishment;

3) request for transfer filed whether by the state of conviction or by the state of execution.

Article 552. Conditions for Transfer

(1) Transfer shall be allowed under the following conditions:

1) the convict shall be a citizen of the state of execution or have his/her permanent domicile there;

2) the judgment of conviction shall be final;

3) the remaining duration of a punishment depriving liberty shall be of at least six months from the date of receipt of the request for transfer or shall be undetermined;

4) the transfer is consented to by the convict or if due to the age, physical or mental condition of the convict one of the two states considers it necessary - by the legal representative of the convict;

5) the act for which the person was convicted constitutes a crime in line with the criminal code of the country of the convict's citizenship;

6) both states agreed upon the transfer;

7) the court deciding on the transfer is convinced that the transferred person will not be subject to an eventual risk of inhumane and degrading treatment in the state he/she is to be transferred to.

(2) The consent of the person in whose regard the sentence was pronounced shall not be requested for a transfer for the execution of his/her sentence if the person in whose regard the sentence was pronounced:

1) escaped from the state where the sentence was pronounced;

2) is the subject of an order on expulsion or deportation.

(3) In exceptional cases, the parties may agree on the transfer even if the remaining duration of the punishment is less than six months.

[Art.552 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 553. Communication of Information

(1) Any convict applied the provisions of this Chapter shall be informed by the competent authority of the state of conviction about his/her right to obtain a transfer in view of executing the punishment in the state of his/her citizenship.

(2) If the convict expresses to the state of conviction his/her wish to be transferred, the state shall inform thereof the state of the convict's citizenship as soon as possible after the court judgment becomes final.

(3) The information shall include:

1) the name, date and place of birth of the convict and, if possible, the address in the state of his/her citizenship;

2) a description of the acts for which he/she was convicted;

3) the nature of the punishment, its duration and the date when its execution started.

(4) The convict shall be informed in writing about any decision taken by any of the two states with regard to the request for a transfer.

Article 554. Request for a Transfer, Attached Documents and Reply Thereto

(1) A request for transfer shall be filed in writing.

(2) To the request shall be attached:

1) a document confirming that the convict is a citizen of the state of execution or he/she has a permanent domicile there;

2) the written consent of the convict for transfer;

3) a legal copy of the judgment of conviction with a notation that it is final and the copy of the texts of the laws applied in the respective case;

4) an affidavit specifying the duration of already executed punishment and of preventive arrest and the duration of the punishment to be executed.

(3) The request shall be addressed by the Minister of Justice of the requesting state to the Minister of Justice of the state requested.

(4) The state of execution in a court judgment issued in line with art. 556 in its reply shall mention if it accepts or rejects the transfer of the convict. If accepting, it shall attach to the reply a copy of the legal provisions indicating that the acts which led to the person's conviction would have constituted a crime if they had been committed on its territory, and the sanction provided in criminal law for these crimes.

(5) Should one of the states consider it necessary, additional documents and information may be requested.

[Art.554 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Article 555. Consent to Transfer

(1) The convict shall consent to his/her transfer voluntarily and shall be aware of the legal consequences thereof in line with the procedural legislation of the state of conviction.

(2) The state of conviction shall provide the state of execution with the possibility to verify if the consent to transfer complying with the provisions in para. (1).

Article 556. Resolving a Request for Transfer

(1) If accepted, a request for transfer of citizens of the Republic of Moldova convicted in another state shall be transmitted by the Minister of Justice with his/her motion for settlement to a court of a level equal to the court of the state of conviction the judgment of which is to be executed. If the judgment of the state of conviction is issued by a court of a level equal to the court, the motion of the Minister of Justice and the request for transfer shall be addressed to the court in the territorial jurisdiction of the Ministry of Justice. If the state of conviction is of a level equal to the court of appeals, the request and the motion shall be addressed to the Court of Appeals of Chisinau Municipality.

(2) The motion of the Minister of Justice shall be resolved in a hearing by a judge in the absence of the convict and in the manner provided in this Code for resolving issues related to the execution of punishment but with the participation of the representative of the Ministry of Justice and of the defense counsel of the convict. If the convict has not chosen a defense counsel, he/she shall be appointed one ex officio.

(3) When resolving a motion on a transfer, the court shall verify compliance with the conditions for transfer provided in this Chapter and with international treaty based on which the transfer is requested or with a reciprocity agreement.

(4) Upon resolving the motion the court shall issue a ruling including:

1) the name of the court in the foreign state and the date and place issued;

2) data about the last domicile of the convict in the Republic of Moldova and his/her occupation;

3) the legal qualification of the crime for which the person was convicted;

4) the criminal law of the Republic of Moldova providing liability for a crime similar to the crime committed by the convict;

5) the judgment accepting or, as the case may be, rejecting the requested transfer;

6) if the requested transfer is accepted, specification of the procedure of execution selected: to continue serving the sentence or to change the conviction.

5) A copy of the court judgment shall be sent to the Ministry of Justice to be transmitted to the state of conviction and to the convict.

[Art.556 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Article 557. Continuing Serving the Sentence and Changing the Conviction

(1) If the state of conviction agrees to transfer the convict, the court shall decide on the following:

1) if in the ruling issued under art. 556 the procedure of continuing to serve the sentence was specified, the court shall set the remaining term of unserved punishment to be served and the category of the penitentiary where the punishment will be served;

2) if in the ruling issued under art. 556 the procedure of changing the conviction was specified, the court shall indicate:

a) the legal qualification of the crime for which the person was convicted;

b) the criminal law of the Republic of Moldova providing liability for a crime similar to the crime committed by the convict;

c) the category and term of the main and complementary punishments set, the term of punishment to be executed in the Republic of Moldova, the category of penitentiary and the manner for redressing damage if a civil action has been filed.

(2) If the category or duration of the punishment pronounced in the state of conviction does not comply with the criminal law of the Republic of Moldova, the court by its judgment may adjust it to the punishment provided in national law for the crimes of the same category. This punishment shall be as close as possible to the punishment applied by the judgment in the state of conviction. By its nature or duration this punishment may not be more severe than the punishment pronounced in the state of conviction and shall not exceed the maximum limit provided in national law.

(3) The part of the punishment served in the state of conviction shall be deduced from the duration of the punishment set by the national court provided that the punishments are of the same category. Should the national court set a category of punishment other than the one applied by the judgment of the state of conviction, when determining the category and duration thereof the part served of the punishment shall be considered.

(4) Any complementary punishment pronounced by the judgment of the state of conviction shall be executed to the extent provided by the law of the Republic of Moldova and not served in the state of conviction.

(5) A court ruling on execution of the punishment may be appealed in line with art. 472.

(6) A copy of the ruling on executing the punishment that became effective shall be transmitted by the Minister of Justice of the Republic of Moldova to the Minister of Justice of the state of conviction.

(7) If a sentence of the state of conviction is repealed or changed and if an act of amnesty or pardon issued by the state of conviction is applied to the person executing the punishment in the Republic of Moldova, the issue of execution of the revised sentence and application of amnesty or pardon shall be settled in line with this article.
[Art.557 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]
[Art.557 amended by Law No.264-XVI dated 28.07.2006, in force as of 03.11.2006]

Section 4
Acknowledging Criminal Judgments of Foreign Courts

Article 558. Cases and Condition of Acknowledging Criminal Judgments

(1) The final criminal judgments pronounced by foreign courts and those of a nature to produce legal effects in line with the criminal law of the Republic of Moldova may be acknowledged by the national court upon a motion of the Minister of Justice or the Prosecutor General based on an international treaty or a reciprocity agreement.

(2) The criminal judgment of a foreign state may be acknowledged only if the following conditions are met:

1) the judgment was pronounced by a competent court;
2) the judgment does not contradict the public order of the Republic of Moldova;
3) the judgment can produce legal effects in the country in line with national criminal law.

Article 559. Procedure for Acknowledging Foreign Court Judgments

(1) A motion of the Minister of Justice or the Prosecutor General on acknowledging a foreign court judgment shall be reasoned and settled by a court of a level equal to the court of the state of conviction the judgment of which is to be acknowledged. If the judgment of the state of conviction is issued by a court of a level equal to the court, the motion of the Minister of Justice or the Prosecutor General shall be resolved by the court in the territorial jurisdiction of the Ministry of Justice while if the court of the state of conviction is of a level equal to the court of appeals, the motion shall be resolved by the Court of Appeals of Chisinau Municipality.

(2) The representative of the Ministry of Justice or, as the case may be, of the General Prosecutor's Office, the convict and his/her defense counsel shall participate in the settlement of the motion. The court may also examine the motion in the absence of the convict if he/she is detained on the territory of a foreign state.

(3) The convict shall be advised of the judgment of the foreign court and of the documents attached thereto translated into the state language or into a language spoken by the convict.

(4) The court shall hear the opinions of those present and based on the materials attached to the motion, if finding that the legal conditions are met, shall acknowledge the criminal

judgment of the foreign court. If the punishment set by the foreign court was not or was partially executed, the court shall replace the unexecuted punishment or the remaining punishment with a respective punishment in line with the provisions in art. 557 para. (1) point 1).

(5) Civil provisions of a judgment of a foreign court shall be executed in line with the rules provided for the execution of the civil judgments of foreign courts.
[Art.559 amended by Law No.48-XVI dated 07.03.2008, in force as of 15.04.2008]

Chapter X
FINAL AND TRANSITORY PROVISIONS

Article 560. This article shall become effective as of June 12, 2003.

Article 561. Upon this Code becoming effective:

1) the Criminal Procedure Code approved by the Law of the Moldovan S.S.R. dated March 24, 1961 (News of the Supreme Soviet of the Moldovan S.S.R., 1961, No.10, art.42), as subsequently amended, shall be repealed;

2) the normative acts issued prior to its application shall apply to the extent they do not contravene its provisions.

Article 562. The Government within one month shall:

1) submit proposals to the Parliament in view of aligning the legislation in force to the provisions of this Code;

2) bring its normative acts in accordance with the provisions of this Code;

3) ensure the revision and repeal by ministries and departments of normative acts contravening this Code;

4) ensure the development of normative acts to regulate the application of this Code.

CHAIRPERSON OF THE PARLIAMENT **Eugenia OSTAPCIUC**

Chisinau, March 14, 2003.
No.122-XV.