

Code of Criminal Procedure of the Azerbaijan Republic

Adopted on 14 July 2000

General Part

FIRST SECTION

Main Provisions

Chapter I

Legislation on criminal procedure

Article 1. Purpose of the legislation on criminal procedure of the Azerbaijan Republic

1.1. The legislation on criminal procedure of the Azerbaijan Republic determines whether acts which appear to be offences are criminal or not and whether a suspect is guilty or not, and determines legal procedures governing criminal prosecution and defence of suspects or accused persons as provided for by criminal law.

1.2. The legislation on criminal procedure of the Azerbaijan Republic is intended:

1.2.1. to ensure that a person committing an act which is considered an offence in law is detected and held criminally responsible;

1.2.2. to make it impossible for officials of the prosecuting authority or judges acting on their own initiative, to unlawfully suspect, accuse or convict a person who is not guilty of an offence;

1.2.3. to ensure that nobody can be illegally or needlessly subjected to coercive procedural measures or to other restrictions on human and civil rights and liberties.

1.3. The legislation on criminal procedure of the Azerbaijan Republic creates the opportunity to establish the rule of law and respect for human and civil rights and liberties.

Article 2. Sources of the legislation on criminal procedure of the Azerbaijan Republic

2.1. The legislation on criminal procedure of the Azerbaijan Republic consists of the following:

2.1.1. the Constitution of the Azerbaijan Republic;

2.1.2. this Code;

2.1.3. the other laws of the Azerbaijan Republic;

2.1.4. the international instruments to which Azerbaijan is a signatory;

2.2. The norms of the Constitution of the Azerbaijan Republic have supreme legal authority throughout the territory of the Azerbaijan Republic and shall apply directly. In case of conflict between the norms of the Constitution of the Azerbaijan Republic and this Code, the norms of the Constitution of the Azerbaijan Republic shall be applied.

2.3. If there are rules in the international agreements to which Azerbaijan is signatory that are different from those in this Code, the rules of the international agreements shall be applied.

2.4. Under criminal procedure, normative legal acts that abolish or restrict human and civil rights and liberties, violate the independence of the judge and the principle of a fair trial or give definitive legal force to prior evidence shall not be applied. Procedural rules of other laws shall be adjusted to the provisions of this Code.

Article 3. Territorial scope of legislation on criminal procedure

3.1. The legislation on criminal procedure of the Azerbaijan Republic shall be in force throughout the territory of the Azerbaijan Republic without limitation, apart from the exceptions provided for in Articles 3.3 and 3.4 of this Code.

3.2. The provisions of legislation on criminal procedure shall be applied outside the territory of the Azerbaijan Republic at sea, on waterways and in the air, on vessels flying the flag or national emblems or registered in its ports.

3.3. The application of the other rules governing the territorial scope of the legislation on criminal procedure of the Azerbaijan Republic may be determined by the international agreements to which Azerbaijan is a signatory.

3.4. Application of the rules of criminal procedure of foreign countries in the territory of the Azerbaijan Republic shall be possible only if provided for in the international agreements to which the Azerbaijan Republic is a signatory and in cases where there is no conflict with the requirements and principles of criminal procedure in the Azerbaijan Republic.

Article 4. Temporal scope of legislation on criminal procedure

4.1. Criminal procedures and the adoption and execution of criminal procedure decisions in the Azerbaijan Republic shall be carried out in accordance with the provisions of the legislation on criminal procedure in force in the Azerbaijan Republic at the time.

4.2. There shall be no retroactive effect of the provisions of the legislation on criminal procedure of the Azerbaijan Republic which limit the rights of parties to criminal proceedings.

4.3. During the trial, evidence shall be ruled admissible in accordance with the provisions of the legislation on criminal procedure of the Azerbaijan Republic which is in force at the time. If newly adopted provisions of the legislation on criminal procedure of the Azerbaijan Republic substantially change the conditions under which evidence is ruled admissible, evidence which is not in accordance with the new provisions may not be used in support of the charge.

Article 5. Legislation on criminal procedure as it relates to foreign citizens and stateless persons

5.1. Criminal procedure relating to foreign citizens or stateless persons who are suspected or accused of committing an offence shall be carried out in accordance with the provisions of the legislation on criminal procedure of the Azerbaijan Republic.

5.2. The special features of criminal procedure involving persons whose diplomatic and other privileges and immunities are determined by the agreements to which Azerbaijan is a signatory are provided for in Articles 436-441 of the Code.

Article 6. Compliance with the requirements of legislation on criminal procedure

6.1. The provisions of the legislation on criminal procedure of the Azerbaijan Republic shall be binding on all individuals and legal entities in the territory of the Azerbaijan Republic.

6.2. Failure to comply with the requirements of the legislation on criminal procedure of the Azerbaijan Republic shall entail liability in the cases determined by the legislation of the Azerbaijan Republic.

Article 7. Principal concepts of legislation on criminal procedure

7.0. The legislation on criminal procedure of the Azerbaijan Republic uses the following main concepts:

7.0.1. "Criminal act" means an act exhibiting criminal characteristics;

7.0.2. "Applicant" means the person addressing the prosecuting authorities or the courts in order to defend his/her real or potential rights;

7.0.3. "Criminal procedure" means the totality of procedures conducted and procedural decisions taken on criminal prosecution;

7.0.4. "Criminal prosecution" is criminal procedure designed to establish the criminal act, incriminate the person who committed the offence covered by criminal law, charge that person, pursue that charge in court, sentence the offender and carry out coercive procedural measures where necessary;

7.0.5. The “prosecuting authority” are preliminary investigation, investigation and prosecution authorities and courts dealing with criminal cases and other prosecution material;

7.0.6. “Criminal case” means all the material collected in connection with the offence committed or supposed offence during the prosecution period;

7.0.7. “Other prosecution material” means the material collected in connection with simplified pre-trial proceedings, a complaint lodged as part of a private prosecution or separate proceedings;

7.0.8. “Criminal proceedings” means the proceedings conducted in accordance with this Code prior to the trial and in the court of first instance, court of appeal and Supreme Court;

7.0.9. “Court” means a court set up to conduct judicial proceedings in accordance with the legislation of the Azerbaijan Republic and to deal with criminal cases and other prosecution material at first instance, on appeal and before the Supreme Court as provided for in this Code;

7.0.10. A court of first instance is a court empowered to examine the charge against any person and give the judgment or other concluding decision relating to that charge, in accordance with this Code;

7.0.11. A court of appeal is a court empowered to examine complaints and appeals against judgments or other decision of the court of first instance which have not become final, in accordance with this Code;

7.0.12. The Supreme Court is a court empowered to examine complaints, appeals and submissions against judgments or other decisions given by the court of first instance with the participation of a jury and against judgments or other decisions of the appeal court which have become final;

7.0.13. A “judge” is a person appointed to this position in accordance with the legislation of the Azerbaijan Republic (the president of the court, his deputy, the chair of the bar association, a judge of a court of first instance or court of appeal, a judge of the Supreme Court);

7.0.14. The “president of the court” is the judge who presides over the court in dealing with the criminal case or other prosecution material, either alone or together with other judges or with the participation of a jury;

7.0.15. A “juror” is a person included in the list of jurors in accordance with the law of the Azerbaijan Republic, selected in accordance with this Code and called to court to take part in a trial;

7.0.16. The “jury” means the jurors assembled to hear criminal cases in accordance with this Code;

7.0.17. The “chairperson” of the jurors is the person chosen from among the jurors before going to the courtroom to bring in a verdict;

7.0.18. The “participants in criminal proceedings” are the preliminary investigator, the investigator, the prosecutor, the victim, the party claiming damages or civil party, the victim bringing a private prosecution, their legal representatives and representatives, the suspect or the accused, their legal representatives, the defence counsel, the defendant to the claim by the civil party and his legal representative or representative;

7.0.19. The “parties to criminal proceedings” are participants in the proceedings who pursue charges and carry out the defence during the trial, on the basis of the adversarial principle and equal legal rights;

7.0.20. The “charge” is the fact of maintaining in accordance with this Code that a person has committed a real offence provided for by criminal law;

7.0.21. “The prosecution” comprises the preliminary investigator, investigator, prosecutor, victim, victim bringing a private prosecution and civil party;

7.0.22. The “investigation” is the preliminary investigation and investigation of the criminal case before the court hearing;

7.0.23. The “prosecutor” is the person who, in accordance with his powers and with this Code, leads the investigation into the criminal case or acts as a public prosecutor upholding public or semi-public charges in court;

7.0.24. The “investigator” is the person who, in accordance with his powers and with this Code, carries out the investigation into the criminal case;

7.0.25. The “preliminary investigator” is the person who, in accordance with his powers and with this Code, carries out the preliminary investigation in relation to the criminal prosecution;

7.0.26. The “victim bringing a private prosecution” is a victim who brings a charge and defends it in court in accordance with this Code;

7.0.27. “Defence” is a procedural activity designed to refute or reduce the charges against the person accused of committing an offence under criminal law, defend his rights and liberties, and restore the rights and liberties of a person wrongly subjected to criminal prosecution;

7.0.28 “The defence” comprises the suspect or the accused, his defence counsel and the defendant to the claim by the civil party;

7.0.29. “Other participants in the criminal proceedings” are circumstantial witnesses, witnesses, specialists, experts, court clerks and interpreters;

7.0.30. The “legal representatives” of the victim, the civil party, the suspect or the accused and the defendant to the claim by the civil party are parents, adoptive parents, guardians and guardianship institutions which represent the legal interests of the victim, the civil party, the suspect or the accused and the defendant to the claim by the civil party during the criminal proceedings in the circumstances provided for in this Code;

7.0.31. The “representative” of the victim, the civil party or the defendant to the claim by the civil party is the person who has a power of attorney certified by a notary to represent the legal rights of the victim, civil party or defendant to the claim by the civil party.

7.0.32. “Close relatives” are grandfathers, grandmothers, parents, adoptive parents, brothers and sisters or stepbrothers and stepsisters, spouses, children, adopted children and grandchildren;

7.0.33. “Relatives” are people who have common ancestors up to grandfather and grandmother, the spouses’ close relatives, and the spouses and close relatives of grandparents, parents, adoptive parents, brothers and sisters, stepbrothers and sisters, children, adopted children and grandchildren;

7.0.34. The “dwelling” is the domicile of one or more persons, temporarily or permanently, which is either in their possession or leased. This includes a house, flat, country house, hotel or hostel room, attached veranda, terrace, gallery, balcony, places for general use (for rest, for storing property or for other requirements) besides cellar and garret as well as the cabin of a ship or the compartment of a train during a long journey. (For the purposes of this Code, the concept includes an individual’s office, areas of fenced land, car or boat);

7.0.35. “Night time” is the period from 22.00h to 07.00h local time;

7.0.36. “Damage” is non-material, physical or material harm to the victim due to a criminal offence;

7.0.37. “Procedures” are the acts provided for in this Code and carried out in accordance with its provisions by participants in the criminal proceedings;

7.0.38. A “restriction” is a coercive procedural measure relating to the suspect or the accused and temporarily limiting his rights, imposed by a preliminary investigator, investigator, prosecutor or court in accordance with this Code;

7.0.39 “Detention” means limiting someone’s freedom for a short period of time in a place of temporary detention in accordance with this Code;

7.0.40. “Detention on remand” in the form of a restriction temporarily limits the freedom of the accused by keeping him in a place of detention (remand facility) in accordance with this Code;

7.0.41. An “application” is a request by a participant in criminal proceedings to the prosecuting authority;

7.0.42. “Submissions” are verbal or written evidence given by the participants in criminal proceedings or applicants in support of their claims or those of the person whom they represent;

7.0.43. A “procedural decision” is a procedural act relating to the criminal case or other prosecution material and made by the judge or judges (excluding judgments) or the preliminary investigator, investigator or prosecutor in accordance with this Code;

7.0.44. The “verdict” is the decision adopted at the end of the trial by the jurors stating whether the accused is guilty or not;

7.0.45. The court “judgment” is the decision passed by the judge (judges) at the end of the hearing at courts of first instance or courts of appeal as to whether the accused is guilty as charged or not and, if he is found guilty, as to whether a penalty shall be imposed or not;

7.0.46. An “appeal” is a complaint by the prosecutor to a higher court against the judgment or other court decision concerning the criminal case or other prosecution material involving the public prosecutor.

7.0.47. A “complaint” is a written application alleging illegality or groundlessness of procedures or procedural decisions, addressed to the judicial authority;

Chapter II

Purposes and basic principles of criminal proceedings

Article 8. Purposes of criminal proceedings

8.0. The purposes of criminal proceedings are the following:

8.0.1. to defend individuals, society and the state against criminal attempts;

8.0.2. to defend individuals against abuse of power in connection with the commission of a real or possible offence;

8.0.3. to detect offences as early as possible, to investigate all the circumstances thoroughly, completely and objectively;

8.0.4. to prosecute and to incriminate those who have committed offences;

8.0.5. to conduct judicial proceedings in order to punish persons found guilty of committing offences and to acquit those who are not guilty.

Article 9. Basic principles and conditions governing criminal proceedings

9.1. Basic principles and conditions governing the criminal proceedings provided for in Articles 10-36 of this Code:

9.1.1. to establish rules as a basis for criminal prosecution;

9.1.2. to ensure a defence against restrictions on human and civil rights and liberties;

9.1.3. to determine the legality and grounds of every criminal prosecution.

9.2. Under the circumstances provided for in this Code, violation of the principles or conditions governing criminal proceedings may render the completed criminal proceedings invalid, cause the decisions taken during them to be annulled and deprive the evidence collected of its value.

Article 10. Legislation

10.1. Courts and participants in criminal proceedings shall conform to the Constitution of the Azerbaijan Republic, this Code, other laws of the Azerbaijan Republic as well as provisions of the international agreements to which Azerbaijan is a signatory.

10.2. No one may be incriminated or charged with a view to prosecution as a suspect or accused person, detained, arrested, searched, taken by force or subjected to other coercive procedural measures, nor convicted, punished or subjected to other limitations of rights and liberties other than on the basis of the rules and principles established by the laws of the Azerbaijan Republic which are in force and published.

10.3. The interpretation of the Constitution of the Azerbaijan Republic and other laws shall be binding on participants in criminal proceedings if that interpretation is made by decision of the Constitutional Court of the Azerbaijan Republic.

10.4. Observations on court practice by the Plenum of the Supreme Court of the Azerbaijan Republic shall constitute recommendations to the judicial authorities.

10.5. Procedures and decisions shall not be valid in the event of a breach of the rules laid down in this article .

Article 11. Equality before the law and the courts

11.1. Criminal proceedings in the Azerbaijan Republic shall be carried out on the basis of the equality of all persons before the law and the courts.

11.2. The judicial authorities may accord no advantage to any participant in the criminal proceedings regardless of citizenship, social status, gender, race, ethnicity, political and religious affiliation, language, origin, property situation, work situation, beliefs, dwelling place, place of origin or of any other reasons which are not based on law.

11.3. The characteristics of criminal prosecution of the President of the Azerbaijan Republic, the Prime Minister of the Azerbaijan Republic and the judges of the Azerbaijan Republic are determined by the constitution of the Azerbaijan Republic, this Code and other laws of the Azerbaijan Republic.

Article 12. Guarantee of the human and civil rights and liberties established by the Constitution

12.1. The judicial authorities shall observe the human and civil rights and liberties afforded by the Constitution to all participants in criminal proceedings.

12.2. The victim of a criminal act shall have the right to demand criminal prosecution, to take part in it as a victim or as a victim bringing a private prosecution and to obtain compensation for non-material, physical and material damage as required by this Code.

12.3. During criminal proceedings everyone shall have the right to defend their rights and liberties as set down by the Constitution in any manner not prohibited by law.

12.4. Decisions on the temporary limitation of the rights and liberties provided for in the Constitution in connection with the application of coercive procedural measures may be taken only in case of necessity, in accordance with this Code.

12.5. It shall be prohibited to use methods and means that may threaten life and health or the environment during criminal prosecution.

12.6. The judicial authorities shall not conceal facts that threaten life, health or the environment.

Article 13. Respect for the honour and dignity of the person

13.1. It shall be prohibited to take decisions or allow acts during the criminal prosecution which debase the honour and dignity of the person or may threaten the life and health of the participants in the proceedings.

13.2. During a criminal prosecution nobody shall:

13.2.1. be subjected to treatment or punishment that debases human dignity;

13.2.2. be held in conditions that debase human dignity;

13.2.3. be forced to participate in carrying out procedures that debase human dignity.

Article 14. Guarantee of the right to liberty

14.1. The right to liberty may be limited only in cases of detention, detention on remand or imprisonment in accordance with the law.

14.2. Nobody may be detained or arrested other than on the grounds provided for in the Code and other laws of the Azerbaijan Republic.

14.3. Only a court decision shall permit the detention on remand of a person or placement in a medical or care institution by force.

14.4. The person detained or arrested shall be immediately informed of the reasons for detention or arrest, the nature of the suspicion or charge and his right not to give a statement and to seek legal aid from defence counsel.

14.5. The preliminary investigator, investigator, prosecutor or judge shall immediately release any person illegally taken into custody or arrested.

Article 15. Guarantee of the right to inviolability of the person

15.1. Search and personal examination and other procedures which breach the right to inviolability of the person may not be carried out against the will of the person concerned or his legal representative without a court decision except in cases of detention and arrest.

15.2. During the criminal prosecution the following shall be prohibited:

15.2.1. the use of torture and physical and psychological force, including the use of medication, withdrawal of food, hypnosis, deprivation of medical aid and the use of other cruel, inhuman or degrading treatment and punishment;

15.2.2. the imposition of long-term or severe physical pain or acts which are detrimental to health, or any similar ill-treatment;

15.2.3. taking evidence from victims, suspects or accused persons or from other participants in the criminal proceedings using violence, threats, deceit or by other unlawful acts which violate their rights.

Article 16. Guarantee of the right to inviolability of private life

16.1. During the criminal prosecution the right to privacy (one's own and one's family's) and the confidentiality of information sent via correspondence, telephone conversations and other means of communication, and of other information, may be limited only by this Code.

16.2. Interception and checking of mail delivered by post, telegraph and other communications, and interception of conversations via telephone or other means of communication, information sent via other communication and technical channels and other information shall be permitted only by court order and in accordance with this Code.

Article 17. Guarantee of the right to inviolability of domicile

17.1. Except in the circumstances provided for in this Code, nobody may enter a dwelling without the consent of those living there.

17.2. The examination and searching of residential, service or industrial buildings, and other investigative and procedural acts which limit the right to property may be carried out only in accordance with this Code on the basis of a court decision.

Article 18. Guarantee of the right to property

18.1. During the criminal prosecution the right to property, including the right to private property, may not be limited except in the circumstances provided for in this Code.

18.2. Property taken during the proceedings shall be noted in an appropriate manner in the records and included in a comprehensive list and a receipt shall be given to the owner of the property stating that the property will be kept safely.

18.3. During the criminal prosecution, the imposition of a fine and the seizure of property may be carried out only in accordance with a court decision.

Article 19. Guarantee of the right to legal aid and the right to conduct one's defence

19.1. During the criminal prosecution the preliminary investigator, investigator, prosecutor and court shall take measures to guarantee the right of the victim, the suspect and the accused to proper legal aid.

19.2. During the criminal proceedings the prosecuting authority shall secure the right of the victim (victim bringing a private prosecution), the civil party or his legal representative, the legal representative of the suspect or accused and the defendant to the civil claim to use the legal aid of the representatives invited by them.

19.3. During the questioning of the victim or witnesses, the prosecuting authority may not prevent the lawyer invited by them as their representative from accompanying them.

19.4. The prosecuting authority shall secure the following rights of the suspect or accused:

19.4.1. to have the assistance of the counsel for the defence from the moment of detention or arrest, as the suspect before the first interrogation or as the accused as soon as charges have been laid;

19.4.2. to explain his rights;

19.4.3. to give him adequate time and opportunity to prepare his defence;

19.4.4. to be able to defend himself in person or with the aid of counsel for the defence chosen by him or, if unable to pay for defence counsel, to receive free legal aid;

19.4.5. to interrogate any witness against him.

19.5. The prosecuting authority shall involve the legal representative of the suspect or the accused in the manner provided for in this Code.

19.6. The presence of counsel for the defence or the legal representative of the suspect or the accused at the criminal proceedings may not limit the rights of the suspect or the accused.

19.7. The suspect or the accused may not be forced to give evidence, to give the prosecuting authority any documents or to assist them in any way.

Article 20. Incrimination of the suspect and his relatives

20.1. Nobody may be forced to testify against himself or his close relatives, or be prosecuted on this basis.

20.2.. During the investigation or court hearing, a person asked to give information which may incriminate him and his close relatives in respect of an offence shall have the right to refuse to incriminate them without fear of negative legal consequences for himself.

Article 21. Presumption of innocence

21.1. Any person suspected of committing an offence shall be found innocent if his guilt is not proven in accordance with this Code and if the court has not delivered a final judgment to that effect.

21.2. Even if there are reasonable suspicions as to the guilt of the person, this shall not cause the latter to be found guilty. The accused (the suspect) shall receive the benefit of any doubts which cannot be removed in the process of proving the charge in accordance with the provisions of this Code, within the appropriate legal proceedings. He shall likewise receive the benefit of any doubts which are not removed in the application of criminal law and criminal procedure legislation;

21.3 The accused shall not be obliged to prove his innocence. It shall be for the prosecution to prove the charge or to refute the evidence given in defence of the suspect or the accused.

Article 22. Guarantee of the right to a court hearing

The judicial authorities shall secure the right of everyone to a fair and open court hearing in connection with the charges against them or the coercive procedural measures applied. The right to a court hearing may not be refused for any reason.

Article 23. Criminal trial only by a court

23.1. The criminal trial shall be carried out only by the competent court as part of the court system of the Azerbaijan Republic. No one may be held guilty of an offence or be convicted in the absence of a court judgment.

23.2. The creation of special courts and the appropriation of court powers shall be prohibited and shall entail liability under the legislation of the Azerbaijan Republic.

23.3. Judgments and other decisions by special or other illegally created courts shall not be valid and shall not be implemented.

Article 24. Criminal trial with the participation of representatives of the people

24.1. The accused shall have the right to demand that justice be administered by a jury trial as provided for in Article 359 of this Code.

24.2. To secure the right provided for in Article 24.1 of this Code, the court of first instance shall summon citizens of the Azerbaijan Republic to serve as jurors to administer justice in criminal cases.

Article 25. Independence of judges and jurors

25.1. Judges and jurors shall be independent and shall obey only the legislation of the Azerbaijan Republic.

25.2. Judges and jurors shall not be bound by the conclusions reached the prosecuting authorities during the investigation.

25.3. Judges and jurors shall decide criminal cases and other prosecution matters in accordance with their conscience and legal opinions, on the basis of their examination of the evidence adduced by the parties to the criminal proceedings.

25.4. The courts of the Azerbaijan Republic shall administer justice under conditions that exclude unlawful influence on the independence and will of judges and jurors.

25.5. Nobody shall have the right to interfere in administering justice or to ask judges or jurors to give explanations of the criminal cases or other prosecution material before them.

25.6. No one may, for any reason, place restrictions on court proceedings in a direct or indirect way, illegally influence, threaten or interfere with them, or show disrespect or act carelessly towards the court. Persons behaving in such manner shall be liable under the legislation of the Azerbaijan Republic.

Article 26. The language used in criminal proceedings

26.1. Criminal proceedings in the courts of the Azerbaijan Republic shall be conducted in the official language of the Azerbaijan Republic or in the language of the majority of the population in the relevant area.

26.2. In the event that the parties do not know the language used in court, the judicial authority shall guarantee the following rights to them:

26.2.1. their right to use their mother tongue;

26.2.2. the right to use the services of an interpreter free of charge during the investigation and court hearings, to be fully familiar with all documents relating to the case and criminal prosecution and to use their mother tongue in court.

26.3. The rights of parties who do not know the language used in criminal proceedings, as provided for under Article 26.2.2 of this Code, shall be secured at the expense of the budget of the Azerbaijan Republic.

26.4. The judicial authority shall provide the relevant persons with the necessary documents in the language used during the trial.

Article 27. Public nature of criminal proceedings

27.1. While safeguarding state, professional, commercial, personal and family secrets in accordance with this Code, court hearings in criminal cases and on other prosecution material shall be held publicly in all courts of the Azerbaijan Republic.

27.2. Court hearings in criminal cases and on other prosecution material may not be held in absentia, except in the circumstances provided for by this Code.

27.3. In all cases court decisions given during the proceedings shall be made public.

Article 28. The objectivity, impartiality and justice of criminal proceedings

28.1. Courts shall hear criminal cases and other prosecution matters in accordance with the legal procedures established by this Code, on the basis of the facts and of impartiality and justice.

28.2. In the course of the proceedings, judges may not express interests other than those of the law.

28.3. If a judge or juror is personally interested in the results of the criminal proceedings in a direct or indirect way, he shall not be permitted to take part in the hearing of a criminal case or examination of other prosecution material.

28.4. During the criminal proceedings, courts shall perform the following functions:

28.4.1. ensure that the parties to the proceedings are able to examine thoroughly, fully and objectively all the circumstances relating to the prosecution;

28.4.2. take into consideration circumstances which incriminate or exonerate the suspect or accused as well as circumstances which mitigate or aggravate his criminal responsibility;

28.4.3. examine applications presented by the suspect or the accused or by their counsel for the defence concerning their innocence or minimal guilt and the availability of evidence which exonerates them or mitigates their responsibility;

28.4.4. examine complaints alleging breach of law during the criminal proceedings;

28.4.5. guarantee the right of the parties to criminal proceedings to participate.

28.5. The court decision regarding the guilt of the person charged may not be based on opinion but shall be supported by all the reliable evidence concerning the case.

28.6. The rules concerning the administration of justice may not be unilaterally altered for different cases and persons or in particular circumstances or at given times.

Article 29. Examination by the appropriate court

29.1. Nobody may be deprived of the right to have his case examined by the court with statutory jurisdiction in the matter. The case may not be heard in another court without the permission of the person concerned.

29.2. It shall be prohibited to change the jurisdiction of the court as provided for in this Code or to groundlessly withdraw the case from the judge designated by law.

Article 30. Restriction on the judge's participation in the criminal proceedings

30.1. A judge who has taken part in the criminal proceedings in a court of first instance or appeal or in the Supreme Court may not take part in a further court hearing.

30.2. In cases provided for in Article 109 of this Code, the judge shall withdraw, or be debarred from, examining criminal cases and other prosecution material.

Article 31. Inadmissibility of non-procedural ties in criminal proceedings

Non-procedural ties other than those provided for by this Code shall not be allowed between members of the court and participants in criminal proceedings or between courts of first instance, appeal courts or the Supreme Court in connection with the examination of criminal cases and other prosecution material.

Article 32 Participation of both sides in criminal proceedings

32.1. In the Azerbaijan Republic the conduct of criminal proceedings shall be based on the adversarial principle.

32.2. In order to guarantee participation of both sides in criminal proceedings in accordance with this Code:

32.2.1. Each party shall be represented in court;

32.2.2. Each party shall have equal rights and opportunities to defend its position;

32.2.3. The prosecution shall seek to prove the criminal act, the ingredients of the statutory offence, the involvement of the accused in committing this offence and the possible criminal responsibility of the accused, and shall offer suggestions as to the legal classification of the accused person's act and the final decision of the court;

32.2.4. The defence shall refute the prosecution's arguments concerning the criminal charge, draw the attention of the judicial authority to the circumstances which preclude or mitigate criminal responsibility and offer suggestions as to the legal classification of the accused person's act and the final decision of court;

32.2.5. Each party shall independently choose its own position and determine its means and methods;

32.2.6. The court shall assist in obtaining any additional documents required at the request of each party in the criminal proceedings;

32.2.7. The court judgment shall be based only on the evidence secured and examined with the equal participation of the parties;

32.2.8. The public prosecutor and the victim bringing a private prosecution shall conduct or withdraw the prosecution;

32.2.9. The accused shall be free to deny his guilt or to plead guilty;

32.2.10 The civil party may withdraw his claim or sign a reconciliation agreement with the defendant to his claim;

32.2.11 The defendant to the civil claim may admit the claim or sign a reconciliation agreement with the civil party.

Article 33. Assessment of evidence in criminal proceedings

33.1. During the proceedings the judges and jurors shall assess the evidence collected on the criminal case in accordance with the requirements of this Code.

33.2. In the course of the proceedings the provisions of Articles 125,144 and 145 of this Code may not be violated.

33.3. No advance decision shall be taken on any evidence or other material in the criminal proceedings.

33.4. Judges and jurors may not regard evidence or other materials unfavourably, or attach more importance to one piece of evidence or other item than to another, until they are examined under the statutory procedure.

Article 34. Nobody may be convicted for the same offence twice

34.1. Nobody may be convicted for the same offence twice.

34.2. If the public prosecutor or the victim bringing a private prosecution, as the case may be, voluntarily drops the criminal charges in court in the circumstances envisaged by Article 41 of this Code, the same person may not be charged again with the same offence (except where new facts are discovered).

34.3. If a final judgment has been given on the commission of an offence, it shall be prohibited to bring the same criminal prosecution twice for the same offence, to change the charge to a more serious one or to increase the penalty.

Article 35. Guarantee of the right to re-apply to a court

35.1. A party to criminal proceedings shall have the right to complain to a higher court, in accordance with this Code, against the procedural decisions and acts of the court dealing with the criminal case or other prosecution material.

35.2. Any person convicted shall enjoy the following rights when complaining to a higher court:

35.2.1. to request a retrial, alleging that the judgment was unlawful or groundless;

35.2.2. to request a reduction of the penalty to which he was sentenced.

35.3. The rights of the person convicted as provided for in Articles 35.1 and 35.2 of this Code may not be restricted.

Article 36. Guarantee of the restoration of the violated rights of an acquitted person

36.1. During criminal proceedings, the prosecuting authority shall guarantee the right of persons covered by Articles 55 and 56 of this Code to have their violated rights and liberties restored and to claim damages.

36.2. The rights of persons who have suffered injury as a result of misuse of official powers or a criminal offence and persons convicted without grounds, unlawfully arrested or whose rights were otherwise limited during criminal proceedings shall be restored in accordance with this Code and other laws of the Azerbaijan Republic.

Chapter III

CRIMINAL PROSECUTION

Article 37. Types of criminal prosecution

37.1. Depending on the nature and severity of the offence, the criminal prosecution shall be carried out in the form of private, semi-public or public charges in accordance with the provisions of this Code.

37.2. A private criminal prosecution shall take place only on a complaint by the victim concerning offences under Articles 147, 148, 165.1 and 166.1 of this Code and shall be discontinued in the event of a reconciliation between the victim and the accused before the court deliberates.

37.3. A semi-public criminal prosecution shall take place on a complaint by the victim or, in the circumstances provided for in Article 37.5 of this Code, on the initiative of the prosecutor for offences under Articles 127, 128, 129.2, 130.2, 131.1, 132-134, 142.1, 149.1, 150.1, 151, 156-158, 163, 175-177.1, 178.1, 179.1, 184.1, 186.1, 187.1, 190.1, 197 and 201.1 of the Criminal Code of the Azerbaijan Republic.

37.4. A semi-public criminal prosecution may not be discontinued by reason of reconciliation of the victim with the accused.

37.5. Where no complaint is made by the victim, a semi-public criminal prosecution may be begun by the prosecutor only in the following cases:

37.5.1. if the offence committed affects the interests of the state or society;

37.5.2. if the offence was committed by or against a representative of the government or other officials of state institutions;

37.5.3. if the offence was committed against a pregnant woman or an elderly or helpless person;

37.5.4. if the offence was committed by threats and by force or against a person dependent on the person who committed it;

37.5.5. if the offence was committed by or against a person without legal capacity or a person below the age of criminal responsibility.

37.6. A public criminal prosecution shall be brought on offences not covered by Articles 37.2 and 37.3 of this Code.

Article 38. Duties involved in criminal prosecution

38.1. When the preliminary investigator, investigator or prosecutor receives information concerning the preparation or commission of an offence or directly discovers such an offence, he shall act to protect and store the evidence and shall immediately open the preliminary investigation or investigation within his powers, in accordance with this Code.

38.2. If the offence is confirmed, the public prosecutor shall arraign the accused in court and request suitable punishment for him or, where necessary, application of coercive medical or educational measures.

38.3. The prosecuting authority shall take measures to compensate for damage as a result of acts provided for in criminal law.

38.4. The criminal prosecution shall continue until the circumstances which exclude criminal responsibility are elucidated or until the public prosecutor or the victim bringing a private prosecution withdraws the prosecution in accordance with this Code.

Article 39. Circumstances which preclude criminal prosecution

39.1. A criminal prosecution may not start or shall be discontinued (and the criminal case may not be begun or proceedings in the criminal case shall be discontinued) in the following circumstances:

39.1.1. if no criminal act has been committed;

39.1.2. if the act does not have a criminal content;

39.1.3. if the time-limit for prosecution has expired (excluding the circumstances in which the time-limit for prosecution is suspended);

39.1.4. if at the time of the act provided for in criminal law the perpetrator is below the age of criminal responsibility (excluding the circumstances in which coercive educational measures must be applied);

39.1.5. if the person dies after committing the act provided for in criminal law (excluding the circumstances in which it is necessary to acquit the person);

39.1.6. if there is a final court judgment on the same charge or another court decision which has not been annulled and makes it impossible to implement the criminal prosecution;

39.1.7. if there is an extant decision of the preliminary investigator, investigator or prosecutor not to initiate the criminal case on the same charge or to discontinue it;

39.1.8. if the victim has not lodged a complaint (in the case of a private prosecution or if the prosecutor does not act to launch the criminal prosecution in the case of semi-public charges);

39.1.9. if there is a reconciliation between the victim and the accused (only in the case of a private prosecution);

39.1.10. if the person committed the offence unconsciously (excluding circumstances requiring the application of coercive measures of a medical nature to such persons);

39.1.11. if there are grounds under the provisions of criminal law to absolve the suspect of criminal responsibility;

39.1.12. if the person has to be released under an amnesty act.

39.2. The criminal prosecution shall also be discontinued if there is no link between the person and the offence or if guilt is not proven.

39.3. In the circumstances provided for in Articles 39.1.1, 39.1.2. and 39.2 of this Code, the criminal prosecution shall be considered as discontinued on grounds of acquittal.

Article 40. Circumstances permitting the criminal prosecution not to take place

40.1. The existence of circumstances under which the suspect is absolved of criminal responsibility and punishment as provided for in criminal law shall be grounds for desisting from criminal prosecution.

40.2. A criminal case may not be commenced or may be discontinued if the person is absolved of criminal responsibility by decision of the preliminary investigator and investigator, with the agreement of the prosecutor, in the following circumstances covered by Articles 72-75 of the Criminal Code of the Azerbaijan Republic:

40.2.1. where the person evinces sincere remorse;

40.2.2. where the person is reconciled with the victim;

40.2.3. in the event a of change in the situation;

40.2.3. if time runs out.

Article 41. Discontinuation of criminal prosecution

41.1. The preliminary investigator, investigator or prosecutor may decide to discontinue the criminal prosecution at any stage of the pre-trial proceedings if they ascertain any circumstance provided for in Article 39 of this Code (including discontinuation of work on the criminal case).

41.2. If there are no grounds for acquittal the preliminary investigator, investigator or prosecutor may not decide to discontinue the criminal prosecution without the consent of the accused (or suspect). In this case the criminal prosecution shall be continued in the manner provided for in this Code and shall end with a judgment or another court decision.

41.3. If the public prosecutor finds circumstances which preclude criminal prosecution in court, he shall withdraw the criminal prosecution of the accused. If the victim bringing a private prosecution continues to uphold the charge, the position of the public prosecutor on exempting the accused from criminal prosecution shall not prevent the criminal case or other prosecution material from being examined in court.

41.4. If the court finds circumstances which preclude criminal prosecution before the beginning of the court hearing, it shall suggest that the public prosecutor decide on the question of withdrawing the prosecution of the accused .

41.5. If the court finds circumstances which preclude criminal prosecution after the beginning of the court hearing, it shall stop the hearing and order an acquittal. In the case of a jury trial, if such circumstances are found, the question of the accused's guilt shall be decided by the jury.

41.6. If the public prosecutor ascertains in court circumstances provided for in Article 40 of this Code which allow the criminal prosecution not to take place, he shall have the right to withdraw the criminal prosecution of the accused. The public prosecutor's withdrawal of the prosecution shall not prevent the victim bringing a private prosecution from continuing criminal proceedings against the accused.

41.7. The question whether a private prosecution is to proceed or not shall depend only on the wishes of the victim. In this case the court shall discontinue the proceedings concerning private charges.

Article 42. Grounds for acquittal

42.1. An accused person may be declare innocent of the offence and acquitted by the court in the following circumstances:

42.1.1. if no criminal act has been committed;

42.1.2. if the act has no criminal content;

42.1.3. if there is no link with the offence committed;

42.1.4. if guilt is not proven;

42.1.5. if the jury delivers a verdict of not guilty.

42.2. Acquittal shall be ordered in the following circumstances:

42.2.1. on the grounds of Article 42.1.1. of this Code if it is proven that the act did not take place or the act was not shown to be a criminal act;

42.2.2. on the grounds of Article 42.1.2. of this Code if there is no criminal content in the act of the accused or if there are circumstances which show that the act was not an offence;

42.2.3. on the grounds of Article 42.1.3. of this Code if the person is proven not to have any link with the offence of which he is accused or if that link is not proven;

42.2.4. on the grounds of Article 42.1.4. of this Code if there is not sufficient evidence to prove guilt or if the evidence collected proves the accused's innocence.

Article 43. Grounds for discontinuing criminal prosecution during the trial

43.1. During the trial a court decision to discontinue the criminal prosecution shall be made in the following circumstances:

43.1.1. if the public prosecutor or the victim bringing a private prosecution withdraws the criminal prosecution;

43.1.2. in the circumstances provided for in Articles 39.1.4., 39.1.6.-39.1.11. of this Code.

43.2. If the victim bringing a private prosecution repeatedly fails to attend the court hearing without good reason or fails to inform the court of the reasons for his absence, he shall be regarded as having dropped the prosecution.

43.3. During the trial, the court may decide to discontinue the criminal prosecution with the consent of the defence in the circumstances envisaged by Articles 39.1.3, 39.1.5, 39.1.12 and 40.2 of this Code.

Article 44. Grounds for conviction

44.1. During the trial the court shall convict if the totality of the investigated evidence establishes that the accused is guilty.

44.2. If there are no grounds for acquittal or for a decision to discontinue the criminal prosecution in accordance with Articles 42 or 43 of this Code, the court shall convict in the following manner:

44.2.1. in the circumstances provided for in Article 39.1.3. of this Code, it shall not sentence the accused;

44.2.2. in the circumstances provided for in Article 39.1.11. of this Code, it shall absolve the accused of the penalty imposed;

44.2.3. if a decision is taken not to apply the time-limit for criminal charges in accordance with the provisions of the Criminal Code of the Azerbaijan Republic, it shall sentence the accused;

44.2.4. in all other circumstances provided by this Code and criminal law, it shall sentence the accused.

CHAPTER IV

CONDUCT OF THE CRIMINAL PROSECUTION

Article 45. The obligation to prosecute

45.1. The conduct of the criminal prosecution shall reflect its progress and outcome.

45.2. The conduct of the criminal prosecution shall be reflected in the documents of the case file, the documents concerning simplified pre-trial proceedings or the documents on the private prosecution.

45.3. A public or semi-public criminal prosecution shall be initiated by the preliminary investigator, investigator or prosecutor, as the case may be, as from the opening of the criminal case.

45.4. In the case of a private prosecution the conduct of the criminal prosecution shall start when the court that received the complaint takes the appropriate decision.

45.5. The conduct of the criminal prosecution may be discontinued by a decision of the prosecuting authority in view of circumstances which preclude criminal prosecution, circumstances which permit non-completion of the criminal prosecution and circumstances which impede completion of the criminal prosecution.

Article 46. Characteristics of the commencement of the criminal prosecution in connection with the start of the criminal case

46.1. There shall be proper reason and grounds for the start of the criminal proceedings relating to a public or semi-public prosecution.

46.2. The reason for starting criminal proceedings may be an application from an individual, information from a legal entity (or official) or the media, or information directly obtained by the preliminary investigator, investigator or prosecutor, concerning an offence committed or in preparation.

46.3. The grounds for starting criminal proceedings shall be sufficient evidence to indicate the ingredients of the offence. If there are grounds to suppose that there are no circumstances indicating the absence of a criminal act or precluding criminal prosecution, the preliminary investigator, investigator or prosecutor shall immediately start the criminal proceedings in accordance with his powers.

46.4. Except in circumstances which preclude criminal prosecution, the court president shall draw the attention of the prosecutor to the fact that the ingredients of a criminal offence have been established during the hearing and the prosecutor shall immediately open the criminal case connected with it. In this case, if the prosecutor decides against initiating criminal proceedings and the president comes to the conclusion that the decision is illegal and groundless, he may require the prosecutor to take the necessary measures.

46.5. The existence of circumstances as provided for in Article 209.2. of this Code shall be enough for the immediate start of the criminal proceedings. In this case a thorough, full and objective investigation shall be carried out until the following circumstances which impede criminal prosecution are established:

46.5.1. lack of evidence to confirm the existence of the criminal act;

46.5.2. existence of the circumstances referred to in Articles 39.1.4.-39.1.7. and 39.1.10 of this Code which preclude prosecution of the only person who can be charged with commission of the act provided for criminal law;

46.5.3. existence of the circumstances referred to in Articles 39.1.3., 39.1.11. and 39.1.12. of this Code which preclude the prosecution of anyone for the act provided for in criminal law.

Article 47. The prosecuting authorities

47.1. The criminal prosecution shall be conducted by the prosecuting authority. Responsibility for this shall lie with the preliminary investigator, investigator, prosecutor or court in charge of the criminal case file, the file on the simplified pre-trial proceedings or the file on the private prosecution, as the case may be.

47.2. Contacts concerning the criminal prosecution with the appropriate institutions in foreign countries, and the execution of instructions from the judicial and investigating authorities of those countries, shall be the responsibility of the appropriate court, prosecutor or investigator as determined by the legislation of the Azerbaijan Republic and the international agreements to which Azerbaijan is a signatory.

Article 48. Guarantee of speedy conduct of the criminal prosecution

48.1. The criminal prosecution shall be started and finished by the preliminary investigator, investigator, prosecutor or court within the time-limits laid down in this Code in such a way as to:

48.1.1 guarantee the collection and examination of evidence in good time;

48.1.2 ensure that people do not wait too long before being charged, or having their cases heard or their rights restored.

48.2. The prosecuting authority shall guarantee the following in all cases:

48.2.1. if a restrictive measure of detention on remand, house arrest or bail is applied, the accused shall, after that measure has been ordered, be able to appear in court for the charge to be substantiated, and be able to undergo trial, within the time-limits laid down in Articles 158 and 159 of this Code;

48.2.2. as from the commencement of any criminal case, the accused shall be committed for trial on the basis of the indictment or the prosecution shall be discontinued, within the time-limits laid down by Article 218 of this Code;

48.2.3. the hearing of any criminal case brought before the court, the examination of the file on simplified pre-trial proceedings and the hearing of complaints and appeals against judgments and other court decisions shall start within the time-limits laid down by Articles 298.2, 301.4, 391.1, 419.3, 426.2 and 427.1 of this Code.

48.3. Periods when the accused is not available to the prosecuting authority, periods when there are other reasons for suspending the proceedings and periods for taking cognisance of the facts of the case are not included in the periods provided for in Article 48.2 of this Code.

48.4. Taking into consideration the provisions of Article 48.3 of this Code, if a person is detained on remand during the pre-trial proceedings for longer than is provided for in Article 48.2.1. of this Code, that person shall have the right to financial compensation for the non-material prejudice suffered. Compensation shall be settled in the course of the civil proceedings, independently of the decision on the criminal case.

Article 49. Combined sets of criminal proceedings

49.1. Only the criminal prosecution of several persons committing an offence together or the criminal prosecution of one person committing several offences may be combined in one set of proceedings.

49.2. In the case of persons who have committed different offences, except where an offence was committed jointly or in an organised group, the charges against these persons may not be combined in one criminal case.

49.3. Charges which delay a court hearing of the case because of the large volume of collected material, or because of the number of accused, or because of other complications, may not be combined in one set of proceedings.

49.4. The following may not be combined in one set of proceedings:

49.4.1. charges against persons who have committed offences against each other, except in the case of a private prosecution;

49.4.2. charges concerning the commission of an offence and its concealment or failure to report it;

49.4.3. charges in the form of a private prosecution for one act and a public or semi-public prosecution for another;

49.4.4. all other charges whose combined examination may impede an objective investigation.

49.5. Sets of proceedings may be joined by a decision of the investigator or prosecutor, or by a court decision in the case of a private prosecution.

Article 50. Separation of criminal proceedings

50.1. Criminal proceedings may be separated in all circumstances which do not impede the thorough, full, objective and timely examination of all the circumstances connected with the criminal case, and in all circumstances in which the nature of the matter makes it possible to examine it separately.

50.2. If a person below the age of criminal responsibility has taken part in the commission of an offence under criminal law and is prosecuted together with other persons, the proceedings against that person shall be separated, as far as possible, at the investigation stage.

50.3. Separation of the criminal proceedings shall be decided by the investigator, prosecutor or court.

Article 51. Obligation to record the course and outcome of procedural acts in criminal proceedings

51.1. The course and the outcome of procedural acts in criminal proceedings shall be set down in a record and other documents, as well as in photographic negatives, photographs, slides, audio recordings, phonograms, videos and films, drawings, sketches, copies and prints, pictures, and electronic and other information media.

51.2. The recording of the course and outcome of procedural acts shall normally be carried out by the prosecuting authority. The record of a procedure shall be drawn up by the preliminary investigator, investigator, prosecutor or other authorised person concerned during the procedure or immediately afterwards.

51.3. The procedural record of the criminal prosecution may be handwritten, typed or recorded by other means, including electronically. Blank lines and pages in the record shall be erased and additions, deletions and amendments shall be specially noted.

51.4. The record of the course and the outcome of procedural acts shall be drawn up in such a way that its contents can be clearly understood directly or with the help of technical means.

51.5. Except in the case of court proceedings, the record of a procedure shall be signed by the person drawing it up. After that the record shall be read out to all those taking part in the procedure concerned and they shall be informed of their right to make observations for inclusion in the record and their duty to sign the record as it stands or with annotations. If anyone is unable because of some physical defect or other reason to sign the record personally, it shall be signed by his defence counsel, legal representative or representative. If a participant in the procedure concerned refuses to sign the record, a note to this effect shall be made on the record.

51.6. During the procedure, if audio and other recordings and photos, videos, films and other visual recordings are made, the person carrying out the procedure shall first inform all participants of the fact. The use of technical means shall be noted in the record of the procedure concerned, and the recording or film shall be sealed and kept as an appendix to the record together with other prosecution material. If the audio or other recording and photo, video, film or other recording of a procedure is listened to or viewed during another procedure, an appropriate note shall be made in the record about the previous procedure.

51.7. The record of a court hearing shall be signed by the president and the clerk within 3 (three) days of the end of the hearing. After that the court shall give those persons who have the right to acquaint themselves with the record 3 (three) days in which to do so. In the case of annotations to the record, the president of the court shall examine these and sign them if he agrees with them or, if not, adopt an appropriate decision with regard to them. Whether or not he is in agreement with the annotations to the record, these annotations and the decision relating to them shall be appended to the record of the court hearing.

Article 52. The prosecution file

52.1. Documents constituting evidence, documents provided for in Article 51.1. of this Code, decisions taken by the prosecuting authorities and written applications by the parties shall be kept in the case file, the simplified pre-trial proceedings file or the private prosecution file, as the case may be.

52.2. Every document added to the case file, the simplified pre-trial proceedings file or the private prosecution file shall immediately be placed on a separate sheet of paper and numbered. The prosecuting authority shall ensure that these pages are numbered consecutively in chronological order and assembled in the case file, simplified pre-trial proceedings file or private prosecution file, as the case may be.

52.3. Records of all investigative acts shall be registered immediately or in any case not later than one working day after the day on which the act was completed, in accordance with the rules issued by the appropriate executive bodies of the Azerbaijan Republic together with the Principal Public Prosecutor's Office of the Azerbaijan Republic. All procedural decisions are important documents and shall be drawn up on specially designed numbered forms. The layout of these forms shall be determined by the appropriate executive bodies of the Azerbaijan Republic together with the Principal Public Prosecutor's Office of the Azerbaijan Republic.

52.4. The case file documents shall be put together in one or more bound folders, each appropriately labelled with a list of the documents inside.

52.5. Other documents and items which cannot be kept with the case file because of their size and nature shall be kept separately. The list of items and documents kept separately from the case file shall be added to it.

52.6. Copies of the case file documents may be made by the prosecuting authority either in certified paper form or electronically.

Article 53. Grounds for suspending the conduct of the criminal prosecution

53.1. The criminal prosecution may be suspended in the following circumstances:

53.1.1. if the person to be charged is unknown;

53.1.2. if the whereabouts of the person to be charged are unknown;

53.1.3. if the person to be charged is not available to the investigating authority or the court;

53.1.4. if the accused is unable to attend the proceedings because of serious illness or not being within the borders of the Azerbaijan Republic;

53.1.5. if the question of depriving the person charged with an offence of his right to immunity or the question of his extradition by a foreign country is raised in accordance with the law;

53.1.6. if the court submits to the Plenum of the Supreme Court of the Azerbaijan Republic a request for the constitutionality of the legislation applied or to be applied in respect of the prosecution to be examined by the Constitutional Court of the Azerbaijan Republic.

53.2. If the criminal prosecution is suspended, the conduct of the criminal case, the simplified pre-trial proceedings or the private prosecution shall also be suspended.

53.3. The criminal prosecution may be suspended in the following ways:

53.3.1. Two months after the start of the criminal case in the circumstances provided for in Article 53.1.1. of this Code;

53.3.2. after the search for the accused has been announced in the circumstances provided for in Article 53.1.2. of this Code;

53.3.3. simultaneously with the announcement of the search for the accused in the circumstances provided for in Article 53.1.3. of this Code;

53.3.4. in the circumstances provided for in Articles 53.1.4. - 53.1.6. of this Code, if a medical opinion from an in-patient medical establishment confirming the serious illness of the person concerned, a statement from the investigating authority confirming that the person is outside the borders of the Azerbaijan Republic, a statement from the Chief Public Prosecutor of the Azerbaijan Republic concerning the waiving of the person's immunity or an application by one of the parties to the criminal proceedings which meets the requirements of Article 456 of this Code provides grounds for halting the prosecution.

53.4. If there are two or more accused and the grounds for suspending the prosecution do not apply to all of them, and if the case cannot be examined objectively without the participation of all the accused, the investigator, prosecutor or court shall have the right to divide the proceedings into parts and to suspend all or part thereof.

53.5. Until the prosecution is suspended, the judicial authority shall carry out all the procedures which are possible without the accused, and the investigator shall take all possible measures to identify and discover the person who committed the offence.

53.6. The prosecution shall remain suspended until the grounds for suspending the proceedings are removed. Once these grounds cease to exist, the proceedings shall be resumed by a decision of the prosecutor, investigator or court.

53.7. Proceedings which have been suspended because the time-limit for prosecution has expired shall be discontinued, except in cases where the person to be charged is unavailable to the investigating authority or the court, in the case of crimes punishable by life imprisonment and in the case of crimes against humanity and war crimes.

Article 54. Termination of criminal proceedings

54.0. The criminal proceedings shall be terminated in the following circumstances:

54.0.1. when the decision to discontinue the criminal prosecution comes into force;

54.0.2. if special execution measures are not required, when a judgment or another concluding court decision comes into force concerning simplified pre-trial proceedings or a private prosecution;

54.0.3. if special execution measures are required, when the judgment or other concluding court decision concerning simplified pre-trial proceedings or a private prosecution is upheld.

Chapter V

ACQUITTAL OF THE ACCUSED

AWARD OF DAMAGES

Article 55. Acquittal of the accused

55.1. A person whose guilt is not proven during the trial shall be acquitted by the court in the name of the Azerbaijan Republic, publicly and immediately and at the same court hearing.

55.2. A person shall be considered innocent if his acquittal is ordered by the court or if the criminal prosecution is discontinued on grounds of acquittal during the pre-trial proceedings.

55.3. A person's rights to his home, property, work, etc may not be restricted if he is acquitted or the criminal prosecution is discontinued for any reason.

Article 56. Persons entitled to damages

56.0. The following persons shall have a right to compensation for the prejudice caused by error or abuse by the prosecuting authority:

56.0.1. an accused who is acquitted;

56.0.2. a person against whom the criminal prosecution is discontinued on the grounds of Articles 39.1.1., 39.1.2., 39.1.6.-39.1.8. and 39.2. of this Code;

56.0.3. a person against whom the criminal prosecution should have been discontinued on the grounds of Articles 39.1.3., 39.1.4., 39.1.10. and 39.1.11. of this Code, but was not discontinued in time and was pursued.

56.0.4. a person against whom the criminal prosecution should have been discontinued on the grounds of Article 39.1.12. of this Code, but continued although that decision was upheld;

56.0.5. a person unlawfully arrested or placed in a medical or educational institution by force or a person kept in detention on remand without legal grounds for longer than the prescribed period of time;

56.0.6. a person unlawfully subjected to coercive procedural measures during the criminal proceedings in the circumstances provided for in Articles 176 and 177 of this Code.

Article 57. Characteristics of compensation

57.1. The persons provided for in Article 56 of this Code shall be paid compensation for non-material, physical and material damage resulting from error or abuse by the prosecuting authority. These persons' residence and labour rights shall also be restored; if that is not possible, they shall be guaranteed financial compensation for breach of these rights.

57.2. The prejudice caused shall be calculated from the following time:

57.2.1. for the persons provided for in Article 56.0.1., 56.0.2., 56.0.5. and 56.0.6. of this Code, 7 (seven) days after the date when the prosecuting authority knows or should have known the circumstances which preclude prosecution;

57.2.2. for the persons provided for in Article 56.0.3. and 56.0.4. of this Code, from the moment when the criminal law or the amnesty act comes into force.

57.3. Persons provided for in Article 56 of this Code who either came forward voluntarily or made a statement of guilt in court which was later disproved, and who thereby created an opportunity for the start of criminal proceedings against them and for the application of coercive procedural measures, shall not receive compensation.

Article 58. Compensation for prejudice suffered

58.1. Material prejudice as a result of error or abuse by the prosecuting authority shall be substantiated, then calculated and compensated for in full.

58.2. Physical and non-material damages shall be paid on the basis of fair assessment by the court if no other statutory arrangement is laid down.

58.3. Compensation shall be paid as follows to the persons provided for in Article 56 of this Code:

58.3.1. loss of salary, pension, allowances and other income;

58.3.2. loss of property caused by forfeiture, transfer to the state, removal by the investigating authorities or distraint;

58.3.3. legal costs;

58.3.4. fees paid to defence counsel;

58.3.5. fines paid or taken during the execution of the sentence.

58.4. Sums spent on detention on remand, court expenses or remuneration of compulsory work during detention on remand may not be deducted from the sum to be paid to the person by way of damages for error or abuse by the prosecuting authority.

58.5. If the compensation is paid on the grounds of acquittal or a decision to discontinue the criminal prosecution, and if that decision is later rescinded in respect of that person and he is convicted in the same criminal case, the return of the sum paid as compensation may be ordered by the court.

Article 59. Restoration of other rights in relation to compensation for damages

59.1. The persons provided for in Article 56 of this Code shall have the following rights regarding compensation for prejudice suffered:

59.1.1. to be reinstated in their previous position; if that is not possible, to be appointed to an equivalent position or to receive financial compensation for loss of the previous position;

59.1.2. to include the periods of deprivation of liberty and restricted liberty in their periods of employment;

59.1.3. to return to their previous residence; if that is not possible, to move to equivalent accommodation with regard also to district and situation;

59.1.4. to restoration of any special or military rank;

59.1.5. to the return of any honorary title or state award.

59.2. At the request of the person acquitted or the person against whom the criminal prosecution was discontinued:

59.2.1. the court or investigating authority shall inform within 2 weeks the previous or present employer, the place of study and place of residence;

59.2.2. Any media publishing information about the criminal prosecution which besmirches the name of the suspect or the accused shall announce within one month the final judgment on the case, without casting doubt on the innocence of the individual.

59.3. The prosecuting authority shall apologise in writing to a person who was detained on remand or charged as a result of error or abuse on the part of that authority.

Article 60. Persons entitled to claim damages

60.1. Persons provided for in Article 56 of this Code, their legal representatives and their heirs in order of kinship shall be entitled to claim and to receive compensation as a result of error or abuse by the prosecuting authority. In the case of decease of the person entitled to receive compensation, the members of the family who are entitled to a pension in respect of that person as head of the household shall also have the right to this compensation.

60.2. The action provided for in Article 59.2. of this Code may be demanded by any relative in the case of decease or loss of legal capacity of the person provided for in Article 56 of this Code. In such circumstances, a territorial prosecutor or specialised prosecutor shall also have the right to make the appropriate request, with which the media concerned shall be obliged to comply.

Article 61. Recognition of the right to claim damages

61.1. The right to claim damages for prejudice caused in the course of the criminal proceedings shall be recognised in the final judgment acquitting the accused or in the decision to discontinue the criminal prosecution.

61.2. If compensation for the prejudice caused by error or abuse on the part of the prosecuting authority is not covered by the acquittal or the decision to discontinue the criminal prosecution, this matter shall be resolved after the end of the criminal proceedings.

Article 62. Explanation of the right to claim damages

62.1. If the payment of compensation for the prejudice caused by error or abuse on the part of the prosecuting authority is not possible in the course of the criminal prosecution, the court which ordered the acquittal and the preliminary investigator, investigator or prosecutor who decided to discontinue the prosecution shall explain the rules governing payment of compensation to the person to whom it is due or, if there is no such person, to the other person provided for in Article 60.2. of this Code, after the end of the criminal prosecution.

62.2. A separate record shall be drawn up concerning the explanation given to the person as regards the right to damages for prejudice caused by error or abuse on the part of the prosecuting authority.

Article 63. Rules governing compensation for prejudice caused after the end of the criminal prosecution

The rules governing payment of compensation for prejudice caused by error or abuse on the part of the prosecuting authority after the end of the criminal prosecution shall be implemented in civil proceedings in accordance with the law of the Azerbaijan Republic on "the right to compensation for individuals who have suffered prejudice through unlawful acts of the investigating and preliminary investigating authorities, the public prosecutor's office and court authorities".

Chapter VI

OBLIGATIONS IN RESPECT OF PROCEDURAL DECISIONS

Article 64. Obligation to execute procedural decisions

64.1. Decisions, instructions, summons and other legal requests by the prosecuting authority which become final shall be binding on all state institutions, individuals and legal entities and shall be executed unconditionally on the territory of the Azerbaijan Republic.

64.2. Failure to execute decisions of the prosecuting authority shall incur liability under the legislation of the Azerbaijan Republic.

64.3. The obligation to execute decisions of foreign courts and investigating authorities on the territory of the Azerbaijan Republic shall be determined by the international agreements to which Azerbaijan is a signatory.

Article 65. Interlocutory significance of procedural decisions

65.1. No new decision may be taken on a matter on which a decision of the prosecuting authority is effective. The decisions of the prosecuting authority except for decisions not to prosecute, shall not be binding in respect of the judgment or other concluding decisions handed down by the court.

65.2. The following decisions shall not be binding on the prosecuting authority, and if new facts are ascertained or earlier facts are disproved, may be examined again without being annulled:

65.2.1. decisions accepting persons as parties to the criminal proceedings and terminating their participation in the proceedings;

65.2.2. decisions on the choice of restrictive measures and the application of other coercive procedural measures;

65.2.3. decisions on the application of state measures for the defence of parties to the criminal proceedings and termination thereof;

65.2.4. decisions relating to the finding, collecting, adducing and investigating of evidence and other prosecution material;

65.2.5. decisions on the order and timing of procedures.

65.3. The binding nature of final court judgments and other final decisions on the prosecution on all state institutions, individuals and legal entities shall not prevent the examination, setting aside or alteration of the court judgment or other decision in the event of an appeal to the Supreme Court or of newly established facts.

65.4. The final court judgment and any other final decision on the prosecution shall be binding during the examination of the civil case only on the question of whether it relates to the criminal act and the accused. A final judgment of the court which confirms the right to pursue the claim shall be binding on the court on this point during the civil proceedings.

65.5. In the exercise of its supervisory functions, the court may rescind the decision of the preliminary investigator, investigator or prosecutor to discontinue the criminal prosecution, and may take a special decision as a result of the court hearing.

65.6. A previous final court judgment on conviction or acquittal shall be binding unconditionally on courts of first instance and appeal.

65.7. A final court decision on the civil case shall be binding on the prosecuting authority only as regards the matter of whether the criminal act took place.

SECOND SECTION

THE COURTS AND THE PARTIES TO CRIMINAL PROCEEDINGS

Chapter VII

THE COURTS

Article 66. Courts conducting criminal proceedings

66.0. The following courts carry out criminal proceedings:

66.0.1. district (city) courts;

66.0.2. military courts;

66.0.3. the Assize Court of the Azerbaijan Republic;

66.0.4. the Military Assize Court of the Azerbaijan Republic;

66.0.5. the Supreme Court of the Nakhchivan Autonomous Republic;

66.0.6. the Court of Appeal of the Azerbaijan Republic;

66.0.7. the Supreme Court of the Azerbaijan Republic.

Article 67. Jurisdiction of district (city) courts

67.1. The district (city) courts shall function as courts of first instance;

67.2. The district (city) courts shall hear cases which do not pose a major public threat and concern minor offences;

67.3. The district (city) courts shall also hear matters relating to simplified pre-trial proceedings, private prosecutions, matters concerning the courts' supervisory functions and other matters;

67.4. Only cases and other matters connected with offences falling within the court's jurisdiction shall be the responsibility of the district (city) court.

Article 68. Jurisdiction of the military courts

68.1. The military courts shall function as courts of first instance;

68.2. The military courts shall hear cases concerning war and military service which do not pose a major public threat and concern minor offences, and cases concerning such offences committed by military personnel (if the offence is committed with the participation of a person who is not military personnel, his case shall also be heard by the military court);

68.3. The military courts shall also deal with matters concerning the courts' supervisory functions, and other, matters in connection with cases covered by Article 68.2. of this Code.

68.4. Only cases and other matters connected with offences falling within the court's jurisdiction shall be the responsibility of the military court.

Article 69. Jurisdiction of the Assize Court of the Azerbaijan Republic

69.1. The Assize Court of the Azerbaijan Republic shall function as a court of first instance;

69.2. The Assize Court of the Azerbaijan Republic shall hear cases and other matters relating to serious and very serious offences;

69.3. Only cases which fall within the court's jurisdiction shall be the responsibility of the assize court.

Article 70. Jurisdiction of the Military Assize Court of the Azerbaijan Republic

70.1. The Military Assize Court of the Azerbaijan Republic shall function as a court of first instance;

70.2. The Military Assize Court of the Azerbaijan Republic shall hear serious and very serious cases relating to war and military service as well as cases and matters concerning serious and very serious offences committed by military personnel (if the offence was committed with the participation of a person who is not military personnel, the case relating to him shall also be heard by the Military Assize Court of the Azerbaijan Republic).

Article 71. Jurisdiction of the Supreme Court of the Nakhchivan Autonomous Republic

71.1. The Court of the Nakhchivan Autonomous Republic shall function as a court of first instance or appeal in various criminal cases and on other prosecution material.

71.2. The criminal division of the Supreme Court of the Nakhchivan Autonomous Republic, as a court of first instance, shall hear cases and other matters involving serious and very serious offences.

71.3. Cases involving offences within the court's jurisdiction shall be referred to the criminal division of the Supreme Court of the Nakhchivan Autonomous Republic.

71.4. The criminal and administrative division of the Supreme Court of the Nakhchivan Autonomous Republic, as a court of appeal, shall hear criminal cases and examine other prosecution material on the basis of complaints and appeals against judgments which have not become final and other decisions of the district (city) courts of the Nakhchivan Autonomous Republic.

71.5. Complaints and appeals against judgments or decisions made at first instance by the criminal division of the Supreme Court of the Nakhchivan Autonomous Republic may not be heard by the criminal and administrative division of the Supreme Court of the Nakhchivan Autonomous Republic as an appeal court.

Article 72. Jurisdiction of the Court of Appeal of the Azerbaijan Republic

72.1. The Court of Appeal of the Azerbaijan Republic shall function as a court of appeal in criminal cases and other prosecution matters;

72.2. The Court of Appeal of the Azerbaijan Republic shall hear criminal cases and examine other prosecution material on the basis of complaints and appeals against judgments which have not become final and other decisions of the following courts of first instance:

72.2.1. district (city) courts of the Azerbaijan Republic excluding the district (city) courts of the Nakhchivan Autonomous Republic;

72.2.2. the military courts;

72.2.3. the criminal division of the Supreme Court of the Azerbaijan Republic;

72.2.4. the Assize Court of the Azerbaijan Republic;

72.2.5. the Military Assize Court of the Azerbaijan Republic.

Article 73. Jurisdiction of the Supreme Court of the Azerbaijan Republic

73.1. The Supreme Court of the Azerbaijan Republic shall function as the highest court of appeal in criminal cases and other prosecution matters.

73.2. The criminal and administrative division of the Azerbaijan Republic shall hear complaints and appeals against judgments or other decisions by the courts of appeal and the jury courts.

73.3. The Plenum of the Supreme Court of the Azerbaijan Republic shall hear cases, on additional appeal, on the basis of submissions by the President of the Supreme Court of the Azerbaijan Republic, appeals by the Principal Public Prosecutor of the Azerbaijan Republic and complaints of the defence against decisions of the Supreme Court, and on the basis of newly established facts.

Article 74. Territorial jurisdiction

74.1. Criminal cases and other matters shall be heard by the court of first instance within whose area the offence took place.

74.2. Jurisdiction in criminal cases which are linked with continuing offences or serial offences shall be determined on the following grounds:

74.2.1. the place where a continuing offence ends shall be regarded as the place where it took place;

74.2.2. the place of the final act covered by criminal law shall be regarded as the place where a series of offences ends.

74.3. Cases involving offences assumed to have been committed abroad shall belong to the court with jurisdiction in the area of the last dwelling place of the accused in the Azerbaijan Republic.

74.4. If it is not possible to determine the place where the offence was committed, the case shall be heard by the court with jurisdiction in the area where the pre-trial proceedings in this case ended.

74.5. If one of two joined criminal cases falls within the jurisdiction of the Assize Court of the Azerbaijan Republic, and the other within that of the district (city) court, they shall be heard by the Assize Court of the Azerbaijan Republic.

74.6. If one of two joined criminal cases falls within the jurisdiction of the Military Assize Court of the Azerbaijan Republic and the other within that of the military courts, the district (city) courts or the Assize Court of the Azerbaijan Republic, they shall be heard by the Military Assize Court of the Azerbaijan Republic.

74.7. In the case of two or more offences within the jurisdiction of equal courts (the district (city) courts or the military courts), they shall be heard by the court with jurisdiction in the area where the pre-trial proceedings in that criminal case ended.

Article 75. Assigning the criminal case or other matter to the competent court

75.1. Before deciding on the assignment of the criminal case, simplified pre-trial proceedings file, private prosecution or other matter to the court, jurisdiction in the matter shall be systematically verified. If it is established that the criminal case or other matter referred to the court is not within its jurisdiction, the court shall transfer it to the appropriate court.

75.2. If the court determines during the hearing that the criminal case it has taken under its jurisdiction must be heard by another court in accordance with Article 74.5 and 74.6 of this Code, it shall transfer the case to the appropriate one.

Article 76. Change of jurisdiction in the criminal case or other matter

76.1. Territorial jurisdiction in the criminal case or other matter may be changed under the following circumstances:

76.1.1. if there is an objection to the judge, in an area where the court consists of only one judge and in the circumstances provided for in Articles 107 and 109 of this Code;

76.1.2. if the court cannot hear the case because all the judges have taken part in an earlier trial, jurisdiction may be changed on the basis of an application by one party to the criminal proceedings or of submissions by the judge or the appropriate court president.

76.2. The decision on the change of jurisdiction in the circumstances provided for in Article 76.1.2. of this Code shall be taken by the president of the appropriate court of appeal.

Article 77. Resolution of disputes concerning jurisdiction

77.1. There shall be no disputes between courts concerning jurisdiction. If a criminal case or other matter is transferred from one court to another in accordance with the rules on jurisdiction, it shall be taken under that court's jurisdiction unconditionally. If there is a difference of opinion between courts on the subject, the criminal case or other matter shall be transferred from one court to the other by the president of the appropriate appeal court.

77.2. Complaints by parties to the criminal proceedings concerning the court's lack of jurisdiction in the criminal case or other matter shall be examined by the same court.

Article 78. The court

78.1. Criminal cases shall be heard in the courts of the Azerbaijan Republic by a single judge or a bench of several judges.

78.2. Criminal cases and other prosecution matters which do not pose a major public threat or concern minor offences shall be heard by a single judge in the court of first instance.

78.3. Criminal cases before the criminal division of the Supreme Court of the Nakhchivan Autonomous Republic, the Assize Court of the Azerbaijan Republic and the Military Assize Court of the Azerbaijan Republic shall be heard with the participation of a jury or a bench of three judges.

78.4. Appeals and complaints concerning criminal cases and other prosecution matters shall be heard in the court of appeal by a bench of three judges.

78.5. In the criminal and administrative division of the Supreme Court of the Azerbaijan Republic, appeals and complaints concerning criminal cases and other prosecution matters shall be heard by a bench of three judges; on additional appeal or on newly ascertained facts, these cases and matters shall be heard by the Plenum of the Supreme Court of the Azerbaijan Republic.

78.6. It shall be prohibited to summon any judge or juror to hear criminal cases and other prosecution matters in a manner contrary to the provisions of this article.

Article 79. The jury

79.1. A jury shall be constituted as provided for in Article 359 of this Code to hear criminal cases in the criminal division of the Supreme Court of the Nakhchivan Autonomous Republic, the Assize Court of the Azerbaijan Republic and the Military Assize Court of the Azerbaijan Republic.

79.2. The jury shall be constituted in accordance with Articles 360-366 of this Code and shall consist of twelve main and two reserve jurors.

79.3. Following the court hearing, the jury shall only give a verdict of guilty or innocent in respect of the accused.

79.4. Depending on the circumstances of the commission of the offence and the criminal prosecution, the jury may ask the president of the court to be merciful to an accused person found guilty.

Article 80. The judge

80.1. The powers of the judge in the criminal proceedings are determined by this Code and other laws of the Azerbaijan Republic.

80.2. Judges who hear criminal cases and other prosecution matters alone in the court of first instance, who prepare court hearings or who ensure the execution of the final judgment or other court decision shall enjoy the judicial powers set out in the articles of this Code.

80.3. Judges who hear criminal cases as part of a bench of judges shall have equal rights with the other judges in resolving all matters relating to the case.

80.4. The president in court hearings involving a jury or a bench of judges, and the judge who hears criminal cases or other prosecution matters alone shall enjoy the powers provided for in Article 81 of this Code.

Article 81. The president

81.1. A jury trial shall be presided over by a judge. The hearing of a criminal case or related matter by a bench of judges shall be presided over by the president of the court, his deputy or one of the other judges.

81.2. The president shall be in charge of the proceedings and shall take all the measures provided for in this Code to ensure a fair trial and fulfil the other procedural requirements concerning the conduct of the parties to the court proceedings. The president shall remove from the court hearing any person unconnected with the examination of the case or material.

81.3. The president in a jury trial shall exercise judicial powers on all matters connected with the hearing of the criminal case, apart from bringing in the verdict. The president shall ensure that the jurors properly examine and fully understand the evidence and can exercise their rights.

81.4. During the hearing of a case by a bench of judges, the president shall present for their consideration all matters connected with examining and resolving the case.

Article 82. Jurors

82.1. Jurors shall fulfil the following duties in accordance with this Code:

82.1.1. to come to the court hearing at which the jury is selected and to answer the president's questions correctly;

82.1.2. to provide additional information about themselves and their relationship with other persons to the president;

82.1.3 to swear the oath set out in Article 367.2 of this Code

82.1.4. to follow the rules of court and comply with the instructions of the president;

82.1.5. following suspension or delay of the hearing, to come at the time set by the president to continue the hearing .

82.1.6. in the jury room, to vote for or against the answers to the questions put by the president on each point, and issues relating to the verdict;

82.1.7. not to disseminate information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

82.1.8. to fulfil the other duties provided for in this Code.

82.2. Jurors shall exercise the following rights in accordance with this Code:

82.2.1. to take part in the examination of evidence before the court;

82.2.2. to request the president of the court to ask questions to determine the circumstances relating to the case which are not clear to them;

82.2.3. to take part in examining material evidence, documents, places and buildings, and all other investigative steps taken by the court;

82.2.4. to ask the president to explain the legal rules governing the criminal case being heard, the contents of documents, the ingredients of the offences with which the accused is charged and unclear concepts;

82.2.5. to ask the president to address specialists in writing to seek an explanation of matters within their competence;

82.2.6. to make written notes during the court hearing.

82.3. Jurors shall be forbidden:

82.3.1. to leave the courtroom in the course of the hearing on the criminal case;

82.3.2. to have any contacts on the nature of the case without the permission of the president;

82.3.3. to collect information on the case outside the court hearing.

Article 83. The chairperson of the jury

83.1. The chairperson of the jury shall have equal rights with the other jurors at the hearing in resolving all matters which arise during the examination of the case and in reaching the jury's verdict.

83.2. As well as general duties of other jurors, the chairperson shall have the following additional duties:

83.2.1. to head their deliberations and give equal opportunities to every juror to participate in discussing the case;

83.2.2. to read out the questionnaire to the jurors in the jury room;

83.2.3. when necessary, to organise jury voting and to sum up the results;

83.2.4. to write down the jury's answers to the questionnaire;

83.2.5. to announce the verdict of the jury in court;

83.2.6. to put questions to the president on the jurors' instructions.

Chapter VIII

The prosecution

Article 84. The prosecutor

84.1. The prosecutor in the criminal proceedings shall rely on the results of the investigation of all the circumstances of the case and shall be guided only by the requirements of the law and his conscience.

84.2. The prosecutor shall fulfil the following duties in accordance with this Code:

84.2.1. to examine applications and other documents on offences which have been committed or are planned, to begin the criminal case if there are sufficient reasons and grounds for doing so and, if so, exercising the powers of the investigator, to conduct the investigation or delegate it to the preliminary investigator or the investigator;

84.2.2. to take charge of the procedural aspects of the investigation of the case;

84.2.3. to bring and defend a civil claim in court;

84.2.4. to defend the charge on the criminal case in court;

84.2.5. to carry out other duties in the course of the criminal prosecution.

84.3. During the pre-trial proceedings the prosecutor in charge of the procedural aspects of the investigation of the case shall be responsible for applying the provisions of this Code. A prosecutor who has carried out the investigation, been in charge of the procedural aspects of the investigation or acted as public prosecutor in court shall not disseminate information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law.

84.4. A prosecutor who has carried out the investigation on the criminal case or been in charge of the procedural aspects of the investigation may not take part in the court hearing as a public prosecutor.

84.5. A prosecutor in charge of the procedural aspects of the investigation shall exercise the following rights while supervising the preliminary investigation and the investigation:

84.5.1. to ensure that the investigating and preliminary investigating authorities observe the legal requirements in their reception, registration and processing of applications and other information on offences committed or planned;

84.5.2. to obtain material and documents on the criminal case and information about the progress of the investigation from the preliminary investigator or investigator, and to check the material and documents on the criminal case and acquaint himself with the course of the investigation;

84.5.3. excluding cases of transfer of the investigation from one authority to another, to remove the criminal case from one preliminary investigator or investigator and transfer it to another in order to guarantee the thorough, full and objective conduct of the investigation, and in cases where the law is violated during the investigation;

84.5.4. to charge the investigating authority with the criminal investigation and to appoint its members;

84.5.5. where circumstances are established which preclude the participation of defence counsel in the criminal procedure, to debar him from acting in the criminal case;

84.5.6. to examine objections to the preliminary investigator or investigator as well as their requests to withdraw;

84.5.7. to give written instructions to the preliminary investigator or investigator concerning the investigation of the offence, the choice, alteration or discontinuation of restrictive measures, the search for the guilty party, the contents of the indictment, the adoption of decisions and investigative or other procedures;

- 84.5.8. to set aside an illegal or groundless decision of the preliminary investigator or investigator;
- 84.5.9. to examine complaints concerning decisions or acts of the preliminary investigator or investigator;
- 84.5.10. if it is necessary to bring a criminal prosecution against a person exercising the right to immunity, to apply to the Principal Public Prosecutor's Office of the Azerbaijan Republic with a view to requesting the corresponding authority to approve the waiving of that person's immunity;
- 84.5.11. to apply to the court for detention on remand of the accused as a restrictive measure, for an increase in the period of detention and in cases provided for in Articles 177.3 and 444 of this Code;
- 84.5.12. to represent the prosecuting authority in court;
- 84.5.13. to discontinue the criminal prosecution against the accused or refrain from prosecution in circumstances provided for in Articles 39 and 40 of this Code;
- 84.5.14. to confirm the indictment and the decisions of the preliminary investigator or investigator in the circumstances provided for in this Code or if not, to refer the criminal case to the investigator with mandatory instructions;
- 84.5.15. to refer the criminal case or other prosecution matter to the court for examination on the merits;
- 84.5.16. to take the appropriate decisions on the criminal case and conduct different investigative and other procedures;
- 84.5.17. to order search operations in order to detect offences and find missing persons or property, and to receive information on the measures taken;
- 84.5.18. to obtain documents and other material on criminal acts and the persons connected with them;
- 84.5.19. to verify the legality of detention, forced appearance before the prosecuting authority and other coercive procedural measures taken by the preliminary investigator or investigator, as well as to charge the preliminary investigating authorities with the conduct of procedures;
- 84.5.20. to take measures to ensure the security of the victim, witnesses and other participants in criminal proceedings;
- 84.5.21. to release the suspect from custody or the accused from detention on remand if there are no longer legal grounds for holding them or if the detention periods provided for in Articles 148.4, 158 and 159 of this Code have been exceeded;
- 84.5.22. to exercise the other rights provided for in this Code.
- 84.6. Except in the case of private prosecutions the prosecutor, when taking part in court hearings as public prosecutor, shall have the following rights pursuant to the rules provided for in this Code:
- 84.6.1. to make objections;
- 84.6.2. to submit applications;
- 84.6.3. to give his opinion on matters being resolved in court and on applications by other parties to the criminal proceedings;
- 84.6.4. to present the evidence for the prosecution and to take coercive procedural measures by court decision so as to ensure the submission of evidence to the court;
- 84.6.5. to take part in the court's examination of the case file in the courts of first instance and appeal;
- 84.6.6. to take part in the selecting of the jurors in court hearings at first instance;
- 84.6.7. to raise objections to unlawful acts by the defence;

84.6.8. to require the inclusion of acts subject to mandatory recording in the record of the investigation, other procedural records or the record of the court hearing;

84.6.9. to withdraw the criminal prosecution of the accused in the circumstances provided for in Article 41.3 of this Code;

84.6.10. to make introductory and summing up speeches and replies in courts of first instance and appeal, and to speak on cases heard in the Supreme Court;

84.6.11. to appeal against judgments and other decisions of the court;

84.6.12. to exercise the other rights provided for in this Code.

84.7. The public prosecutor shall fulfil the following duties:

84.7.1. to comply with the rules during the court hearing;

84.7.2. to obey the orders of the president;

84.7.3. to fulfil the other duties provided for in this Code.

84.8. The prosecutor in charge of the procedural aspects of the investigation shall comply with the instructions of a senior prosecutor. If the prosecutor in charge of the procedural aspects of the investigation disagrees with the instructions on the prosecution of the accused, the choice of restrictive measures or changes to them, the classification of the offence, the scale of the charge, the termination of the case or committal for trial, he shall have the right to send his reasoned objection to the senior prosecutor. If the latter agrees with the arguments he shall rescind his written instructions; if he disagrees, he shall transfer responsibility for the investigation to another prosecutor. An objection to the prosecutor's written instructions shall not stay the execution of those instructions.

Article 85. The investigator

85.1. In the context of criminal prosecution the investigator shall obey the requirements of the law and rely on the prosecutor's instructions and his own conscience in taking the necessary procedural decisions and carrying out the investigation and other procedures.

85.2. The investigator shall fulfil the following duties in accordance with this Code:

85.2.1. to examine applications and other information received concerning offences committed or planned, to instigate proceedings where there are sufficient reasons and grounds, to take charge of the case, to take the necessary steps to detect the offence and investigate the case thoroughly, fully and objectively, and to carry out all the investigative and other procedures within his powers;

85.2.2. to inform the suspect from the moment of detention and the accused from the time when he is charged or arrested about their rights, and to explain the reasons for detention, charges or detention on remand, as the case may be;

85.2.3. to guarantee the right to the assistance of defence counsel from the moment of detention, charge or arrest (in accordance with the provisions of Articles 153.2.5. -153.2.8 of this Code);

85.2.4. where sufficient evidence is collected confirming that the suspect committed the offence, to charge him;

85.2.5. where necessary, to ensure that restrictive measures are imposed on the suspect or the accused in accordance with the requirements of Articles 154-157, 160 and 163-172 of this Code;

85.2.6. to release the suspect or the accused if they are detained without grounds or for longer than the periods provided for in Articles 148.4, 158 and 159 of this Code;

85.2.7. to execute the instructions of the prosecutor;

85.2.8. to give written and verbal explanations to the prosecutor and the court;

85.2.9. to exempt the suspect or the accused from payment of legal aid costs in accordance with Article 193 of this Code;

85.2.10. to recognise the appropriate persons in the case as the victim, the civil party and the defendant to the civil claim;

85.2.11. to take steps to ensure payment of compensation for material damage as a result of the offence and arrange seizure of property as appropriate;

85.2.12. to complete the investigation, to acquaint the accused, defence counsel, the victim, the civil party and their representatives with the case file, to examine applications connected with it and, having drawn up the criminal indictment, to send it to the prosecutor in charge of the procedural aspects of the investigation, in accordance with Articles 158, 159 and 218-221 of this Code;

85.2.13. not to divulge information on circumstances concerning the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

85.2.14. to fulfil the other duties provided for in this Code.

85.3. The investigator who carries out the investigation in a criminal case shall be responsible for carrying out the investigative and other procedures lawfully and in good time.

85.4. In accordance with this Code, the investigator shall exercise the following rights:

85.4.1. to obtain documents and other material providing information on the criminal act and the persons linked to it;

85.4.2. to detain the suspect, to question him and the victim and witnesses, to call for expert reports, to arrange for identification and carry out investigative acts such as crime scene examination, search of premises, searching of persons (including body search) and seizure of property;

85.4.3. to require the state authorities to furnish interpreters, specialists and experts and, with the agreement of the persons concerned, to summon them to attend the appropriate investigative procedures as circumstantial witnesses, interpreters, specialists or experts;

85.4.4. to require the state authorities and auditors' firms to carry out inspections, inventories, expert appraisals and other verifications;

85.4.5. to instruct the appropriate preliminary investigating authority to carry out search operations in order to detect an offence or find missing persons or property, and to receive information on the action taken;

85.4.6. to instruct the appropriate preliminary investigating authority to implement detention, forced appearance before the prosecuting authority and other coercive procedures and to require its assistance in carrying out investigative or other procedures;

85.4.7. to instruct the appropriate preliminary investigating authority or the preliminary investigator to carry out separate investigative acts;

85.4.8. where circumstances are established which preclude the participation of defence counsel in the proceedings, to present a request to the prosecutor about his exclusion from participation in the proceedings;

85.4.9. to examine objections against circumstantial witnesses, interpreters, specialists or experts;

85.4.10. to examine applications by the parties and complaints and other applications by other persons connected with the proceedings;

85.4.11. to examine complaints by the parties;

85.4.12. except for decisions which are the prerogative of the court, to take decisions on the choice of restrictive measures, changes to them and termination thereof, and the carrying out of investigative and other coercive procedural measures;

85.4.13. to take a decision on the suspension or discontinuation of the proceedings;

85.4.14. to exercise the other rights provided for in this Code.

85.5. If the investigator disagrees with the instructions or decisions of the prosecutor in charge of the procedural aspects of the investigation on the prosecution of the accused, the choice, changes in or termination of restrictive measures, the classification of the offence, the scale of the charge, termination of the case or committal for trial, he shall have the right to send his reasoned objection to the senior prosecutor. If the latter agrees with his arguments, he shall rescind the written instructions of the junior prosecutor; if he disagrees with the arguments, he shall transfer the investigation to another investigator. An objection to the prosecutor's written instructions shall not stay the execution of those instructions.

85.6. Following all the requirements of this Code, the chief (in his absence his deputy) of the investigation department (section, office) shall employ the full powers of the investigator:

85.6.1. to arrange for registration of applications and other information received concerning offences committed or planned, and to order their examination and the investigation of the case or separate investigative acts by the investigator or group of investigators;

85.6.2. to supervise the taking of timely and appropriate measures by the investigator to detect, investigate and prevent an offence;

85.6.3. to take the necessary organisational measures to conduct thorough, full and objective investigations of criminal cases;

85.6.4. to send applications for mandatory examination on matters covered by Articles 84.5.5, 84.5.8., 84.5.10. and 84.5.20 of this Code to the prosecutor in charge of the procedural aspects of the investigation.

Article 86. The preliminary investigator

86.1. During the criminal prosecution, the preliminary investigator shall take the necessary procedural decisions pursuant to the law, on the basis of the prosecutor's instructions and his own conscience, and shall carry out investigative or other procedures within his powers.

86.2. The preliminary investigator shall fulfil the following duties in accordance with this Code:

86.2.1. to examine applications and other information received concerning offences committed or planned, to instigate proceedings where there are sufficient reasons and grounds for doing so, to take charge of the case, to take the necessary steps to detect the offence and make a thorough, full and objective investigation of the case, and to carry out all the investigative and other procedures within his powers;

86.2.2. to inform the suspect of his rights from the moment of detention and to explain the reasons for detention;

86.2.3. to guarantee the right of the person to the assistance of defence counsel from the moment of detention (in accordance with the provisions of Articles 153.2.5-153.2.8 of this Code);

86.2.4. where necessary, to ensure that restrictive measures are imposed on the suspect in accordance with the requirements of Articles 154-156, 160 and 165-172 of this Code;

86.2.5. to release the person if there are no legal grounds for detention or if he has been detained for more than 48 hours;

86.2.6. to recognise appropriate persons in the case as the victim, the civil party and the defendant to the civil claim;

86.2.7. to take steps to ensure payment of compensation for material damage caused by the offence and arrange seizure of property as appropriate;

86.2.8. to exempt the detained suspect from payment of for legal aid costs in accordance with Article 193 of this Code;

86.2.9. to execute the instructions and decisions of the prosecutor and the investigator;

86.2.10. to give written and verbal explanations to the prosecutor or the court;

86.2.11. in criminal cases subject to mandatory investigation, after taking the immediate investigative steps, to send all the material pertinent to the case to the appropriate investigating authority not later than 10 (ten) days after the beginning of the case, in accordance with the rules on investigative jurisdiction;

86.2.12. not to divulge information about circumstances concerning the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

86.2.13. in the case of offences which do not pose a major public threat, to send the simplified investigation file, with the final record, to the prosecutor not later than 10 (ten) days after the beginning of the investigation;

86.2.14. to carry out the other duties provided for in this Code.

86.3. The preliminary investigator conducting the criminal prosecution shall be responsible for carrying out investigative and other procedures within his powers legally and in good time.

86.4. The preliminary investigator shall exercise the following rights in accordance with this Code:

86.4.1. to take statements from witnesses to the criminal act, to acquaint himself with the circumstances in which it took place, to obtain documents and other material providing information on the criminal act and the persons connected with it;

86.4.2. to detain the suspect, to question him, as well as the victim and witnesses, to call for expert reports, to arrange for identification; to perform such investigative acts as cannot be delayed, such as crime scene examination, search of premises, searching of persons (including body search) and seizure of property;

86.4.3. to require the state authorities to furnish interpreters, specialists and experts and, with the agreement of the persons concerned, to summon them to attend the appropriate investigative procedures as witnesses, interpreters, specialists or experts;

86.4.4. to require the state authorities and auditors' firms to carry out inspections, inventories, expert appraisals and other verifications;

86.4.5. to instruct the appropriate preliminary investigating authority to carry out search operations in order to detect the offence or find missing persons or property, and to receive information on the action taken;

86.4.6. where circumstances are established which preclude the participation of defence counsel in the proceedings, to present a request to the prosecutor about his exclusion from participation in the proceedings;

86.4.7. to examine objections against witnesses, interpreters, specialists or experts;

86.4.8. to examine applications by the parties and complaints and other applications by other persons connected with the proceedings;

86.4.9. to examine complaints by the parties;

86.4.10. except for decisions which are the prerogative of the court, to take decisions on the choice of restrictive measures, changes to them and termination thereof, and the carrying out of investigative and other coercive procedural measures;

86.4.11. to take a decision on the discontinuation of criminal proceedings and to submit it to the prosecutor for confirmation;

86.4.12. to exercise the other rights provided for in this Code.

86.5. The preliminary investigator shall not have the right to carry out search operations using covert procedures in connection with a case within his jurisdiction.

86.6. Once the prosecutor or investigator has taken charge of a criminal case, the preliminary investigator shall carry out the different investigative acts and the appropriate search operations only on the instructions of the prosecutor or investigator and through the preliminary investigating authority with which he works.

86.7. The chief of the preliminary investigating authority pursuant to the requirements of this Code and within his powers, shall:

86.7.1. arrange for registration of applications and other information received concerning offences committed or planned, and order their examination and the preliminary investigation of the criminal case or the conduct of separate investigative acts by the preliminary investigator or group of preliminary investigators;

86.7.2. supervise the taking of timely and appropriate measures by the preliminary investigator to detect, investigate and prevent offences;

86.7.3. empower the prosecutor acting within his own sphere of responsibility to verify the execution and application of the law in the activity of the bodies conducting the preliminary investigation and search operations, and ensure that the proper measures are taken for the execution of the instructions and decisions of the prosecutor and investigator;

86.7.4. organise the execution of court decisions.

86.8. Officials of the preliminary investigating authority, pursuant to the requirements of this Code and within their powers, shall:

86.8.1. take measures to prevent offences under criminal law;

86.8.2. detain persons who commit or are suspected of committing offences under criminal law;

86.8.3. search the detained person at the place of detention;

86.8.4. explain his rights to the detained person;

86.8.5. take the necessary measures for surveillance of the scene of the incident, to protect the traces of the offence and to take statements from witnesses to the incident;

86.8.6. carry out the instructions of the investigator or prosecutor for the conduct of procedures at the scene of the incident.

Article 87. The victim

87.1. If there are sufficient grounds to show that the individual suffered direct non-material, physical or material damage as a result of the act provided for in criminal law, he shall be referred to as a victim.

87.2. If the offence causes the death of the victim, the victim's rights under this article shall be exercised by his close relatives.

87.3. A legal entity which has been caused material or non-material damage may be referred to as the victim. In this case the victim's rights and duties shall be exercised by the authorised representative of the legal entity.

87.4. As soon as the decision is taken by the preliminary investigator, investigator, prosecutor or court, the person shall be referred to as the victim. If at the start of the criminal proceedings there are insufficient grounds to declare the person a victim, that decision shall be taken as soon as sufficient grounds are determined.

87.5. If, after recognition of the person as a victim, it is determined that there are no grounds for this person to remain a victim, the preliminary investigator, investigator, prosecutor or court shall order that the person no longer be classed as a victim and shall present their reasoned decision.

87.6. The victim shall have the following rights in accordance with this Code:

87.6.1. to know the nature of the charge;

87.6.2. to give statements;

87.6.3. to make submissions;

87.6.4. to present evidence to add to the case file for examination in court;

87.6.5. to raise objections;

87.6.6. to submit applications;

87.6.7. at any time before the beginning of the court hearings, to ask to be recognised as a victim bringing a private prosecution;

87.6.8. to raise objections to the acts of the prosecuting authorities and to ask that these objections be noted in the records of the investigation and of other procedures;

87.6.9. to take cognisance of the records of the investigation or other procedures in which he takes part, to make observations on the accuracy and completeness of the written record; while taking part in the investigation and other procedures as well as in the court hearing, to ask that the requisite facts be properly recorded; and to take cognisance of the record of the hearing and add observations to it;

87.6.10. from the time of the end of the investigation, including the time of the discontinuation of the criminal proceedings, to acquaint himself with the case file and to make copies of the necessary documents relating to it;

87.6.11. to take part in the hearings of courts of first instance and appeal and in the examination of the case file;

87.6.12. to speak and reply at the hearings of first instance and appeal courts if his representative is not present;

87.6.13. to be informed of the decisions taken by the prosecuting authority which affect his rights and legal interests and on request, to receive copies of these decisions; to receive copies of the decisions on discontinuing the proceedings, charging of the accused and waiving of the criminal prosecution, the indictment, the judgment and court decisions;

87.6.14. to appeal to the court of appeal or the Supreme Court against the decisions and acts of the preliminary investigator, investigator, prosecutor or court, including the judgment and other decisions of the court;

87.6.15. to become reconciled with the accused while conducting a private prosecution;

87.6.16. to raise objections about circumstances known to him from the information provided by the prosecuting authority or the complaints of parties to the criminal proceedings;

87.6.17. to take part in Supreme Court hearings on appeal, on additional appeal or on the basis of newly discovered facts further to a complaint of his own, or if he has an objection to a complaint by another party to the criminal case;

87.6.18. to receive compensation from the state as determined by law for prejudice suffered as a result of the act provided for in criminal law;

87.6.19. to be reimbursed for the costs incurred during the proceedings and receive compensation for damage caused by illegal acts of the prosecuting authority;

87.6.20. to recover property and originals of official documents belonging to him taken as material evidence or on other grounds by the prosecuting authority; to recover property from the person who committed the criminal offence;

87.6.21. to appoint and dismiss a representative;

87.6.22. to withdraw any complaint lodged by him or his representative, including a complaint concerning the commission of criminal acts against him;

87.6.23. to exercise the other rights provided for in this Code.

87.7. The victim shall fulfil the following duties in accordance with this Code:

87.7.1. to attend as required by the prosecuting authority;

87.7.2. to give evidence at the request of the prosecuting authority;

87.7.3. to provide items, documents and samples as required by the prosecuting authority for the purposes of comparative examination;

87.7.4. to be examined concerning the alleged offence at the request of the prosecuting authority;

87.7.5. where there is reason to doubt the person's ability to understand the incident and describe it, to undergo an outpatient medical examination at the request of the prosecuting authority in order to determine this;

87.7.6. to obey the instructions of the preliminary investigator, investigator, prosecutor or court president;

87.7.7. not to leave the courtroom without the permission of the president until a break is announced;

87.7.8. to comply with the rules of court;

87.7.9. not to divulge information about circumstances which affect the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

87.7.10. to carry out the other duties provided for in this Code.

87.8. The victim shall exercise his rights and fulfil his duties in person or through his representative. The rights of victims who are under age or lack legal capacity shall be exercised by their legal representative as laid down in this Code.

Article 88. The victim bringing a private prosecution

88.1. The following persons shall be recognised as victims bringing a private prosecution:

88.1.1. a person who applies before, during or after the preparatory court hearing on semi-public criminal prosecution, but before the court starts examining the case, to be allowed to appear in court as a victim bringing a private investigation: as from the receipt of the application;

88.1.2. in a semi-public criminal prosecution, a person who has suffered damage as a result of the offence and asks the prosecuting authority for proceedings to be instituted, for an investigation to be carried out and for recognition as victim: from the moment when he is recognised as victim in the ongoing case;

88.1.3. a victim of an offence who lodges a complaint with the court with a view to a private prosecution: from the moment when the court decides that the complaint falls within its jurisdiction or schedules it for consideration by the court.

88.2. If the victim is under age or lacks legal capacity, his legal representative who submits the application, request or complaint provided for in Article 88.1. of this Code shall be referred to as victim bringing a private prosecution.

88.3. In the circumstances provided for in Article 88.1.1. of this Code, the legal heir of a victim who has applied for permission to take part in the court hearing shall be referred to as a victim bringing a private prosecution.

88.4. The victim bringing a private prosecution shall exercise all the rights of the victim and fulfil his duties. In addition, in accordance with this Code, he shall:

88.4.1. prepare the file on the private prosecution;

88.4.2. exercise his right to withdraw the prosecution at any time during the proceedings;

88.4.3. give his opinion, during court hearings, on applications by other parties to the criminal proceedings and on matters examined in court;

88.4.4. undertake to present the evidence to the court on his own or with the aid of the court;

88.4.5. take part in the examination of the case file at hearings of first instance and appeal courts;

88.4.6. raise objections to unlawful acts by the opposite party;

88.4.7. continue the prosecution of the accused if the public prosecutor withdraws the prosecution;

88.4.8. make an introductory statement (announcing the private prosecution) and speak and reply at hearings of first instance and appeal courts if his representative is not present, and make a statement on the matter under consideration before the Supreme Court.

88.5. The victim bringing a private prosecution shall exercise his rights and fulfil his duties in person or through his representative.

Article 89. The civil party

89.1. If there are sufficient grounds for concluding that as a result of the offence under criminal law material damage was done, the individual or legal entity claiming compensation for it during the criminal proceedings shall be referred to as the civil party.

89.2. The decision on recognition as civil party shall be taken by the preliminary investigator, investigator, prosecutor or court. If at the time of submission of the claim there are insufficient grounds to recognise the person as civil party, this decision shall be taken as soon as sufficient grounds are determined.

89.3. If, after the person is recognised as civil party, it is determined that the claim was not submitted by the proper person or there are no grounds for the person to continue as civil party, the preliminary investigator, investigator, prosecutor or court shall terminate the participation of this person in the criminal proceedings as civil party by means of a reasoned decision.

89.4. In defending his claim, the civil party shall exercise the following rights in accordance with this Code:

89.4.1. to know the nature of the charge;

89.4.2. to make submissions and statements concerning the claim;

89.4.3. to present evidence and documents for inclusion in the criminal case file and examination in court;

89.4.4. to raise objections;

89.4.5. to submit applications, including an application for measures to secure the claim;

89.4.6. to object to the acts of the prosecuting authority and to require that these objections be noted in the records of the investigation and other procedures;

89.4.7. to acquaint himself with the records of the investigation and other procedures in which he takes part, to make observations on the accuracy and completeness of the written records; when taking part in investigative or other procedures and in the court hearing, to require that matters subject to mandatory recording be noted in the record; to take cognisance of and make additions to the record of the hearing;

89.4.8. from the time when the investigation ends or the criminal proceedings are discontinued, to acquaint himself with the case file and make copies of the necessary documents relating to it;

89.4.9. to take part in court hearings at first instance and on appeal and the examination of the case file;

89.4.10. to speak and reply in courts of first instance and appeal in the absence of his representative and to speak on the matter under consideration before the Supreme Court;

89.4.11. to be informed by the prosecuting authority of the decisions it has taken which affect his rights and legal interests, and on request to receive copies of official decisions and copies of the indictment, judgment or other decisions of the court;

89.4.12. to appeal to the appeal court or Supreme Court against the decisions and acts of the preliminary investigator, investigator, prosecutor or court, including the part of the judgment or other court decision relating to the claim;

89.4.13. to object to circumstances made known to him through the information given to him by the prosecuting authority about the part relating to his claim or through the complaints of other parties;

89.4.14. to take part in Supreme Court hearings on appeal, on additional appeal or on the basis of newly discovered facts. Further to a complaint of his own, if he has an objection to an appeal by another party to the criminal proceedings, and to take part in the court's examination of the case file;

89.4.15. to give his opinion in court on the applications and suggestions of the other parties to the proceedings as well as on matters being settled by the court;

89.4.16. to object to illegal acts by another party to the criminal proceedings;

89.4.17. to appoint and dismiss a representative;

89.4.18. to withdraw any complaint lodged by himself or his representative;

89.4.19. to waive his claim at any time during the proceedings;

89.4.20. to be reimbursed for costs incurred during the criminal proceedings and receive compensation for prejudice caused as a result of illegal acts by the prosecuting authority;

89.4.21. to recover property and the originals of official documents taken by the prosecuting authority as material evidence or on other grounds; to recover his property from the person who committed the criminal offence;

89.4.22. to exercise the other rights provided for in this Code.

89.5. The civil party shall fulfil the following duties in accordance with this Code:

89.5.1. to attend as required by the prosecuting authority;

89.5.2. to provide copies of the claim in accordance with the number of defendants to the civil party's claim;

89.5.3. to provide items, documents and samples as required by the prosecuting authority for the purposes of comparative examination;

89.5.4. to comply with the instructions of the preliminary investigator, investigator, prosecutor or court president;

89.5.5. not to leave the courtroom without the permission of the president until a break is announced;

89.5.6. to comply with the rules of court;

89.5.7. not to divulge information about circumstances involving the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

89.5.8. to fulfil the other duties provided for in this Code.

89.6. The civil party may be questioned by the prosecuting authority as a witness.

89.7. The civil party shall exercise his rights and fulfil his duties in person or with the aid of his representative.

Chapter IX

THE DEFENCE

Article 90. The suspect

90.1. The following individuals shall be recognised as suspects:

90.1.1. a person whom it has been decided to detain with a view to a criminal charge;

90.1.2. a person detained on suspicion of committing an offence;

90.1.3. a person about whom a decision on the choice of restrictive measure, excluding arrest, bail and house arrest, is taken.

90.2. The prosecuting authority shall be empowered to detain a suspect for the following periods:

90.2.1. persons detained: no more than 48 hours;

90.2.2. a suspect about whom a choice of restrictive measure has been made, excluding arrest, bail and house arrest: no more than 10 days after the announcement of the decision.

90.3. Before the end of the period provided for in Article 90.2. of this Code, the prosecuting authority shall release the suspect and end the restrictive measure or take a decision to charge him.

90.4. If there are not sufficient grounds for suspicion, the prosecuting authority or the court shall release the suspect and end the restrictive measure before expiry of the periods laid down in Article 90.2 of this Code.

90.5. From the time of release, ending of the restrictive measure or when the decision is taken to bring charges, the person concerned shall cease to be considered as the suspect.

90.6. The preliminary investigator, investigator or prosecutor in charge of the criminal prosecution shall guarantee the suspect's rights, and shall not prevent him from using all lawful means of exercising his defence rights.

90.7. From the outset of detention or the decision on the choice of restrictive measure, the suspect shall exercise the following rights in accordance with this Code:

90.7.1. to know what he is suspected of (the nature of the suspicion – factual description and legal classification of the offence of which he is accused);

90.7.2. to know the grounds for detention, if detained, to receive legal aid from the defence counsel from the outset of detention, and to receive written notification of his rights from the person who detained him or the preliminary investigator, investigator or prosecutor;

90.7.3. to receive a copy of the decision on his detention or on the choice of restrictive measure;

90.7.4. to take cognisance the record of detention immediately after it is drawn up and to make observations, which must be appended to the record;

90.7.5. to have access to defence counsel from the time of the decision on detention or on the choice of restrictive measure;

90.7.6. to inform his family, relatives, home or workplace (or place of study) immediately after he is detained, by telephone or other means;

90.7.7. to choose his defence counsel independently, to dismiss him and to conduct his own defence if he waives the right to defence counsel;

90.7.8. to have unlimited opportunity and time to meet his defence counsel in private and in confidence;

90.7.9. to have the help of defence counsel free of charge and, at his own request, to make statements with his defence counsel present;

90.7.10. to give statements, not to incriminate himself or his relatives and in general to refuse to give a statement;

90.7.11. to give statements in his mother tongue or a language he knows;

90.7.12. to have the help of an interpreter free of charge;

90.7.13. to raise objections and to submit applications;

90.7.14. to participate in investigative or other procedures or to refrain from participating in them unless this is prohibited by another article of this Code;

90.7.15. to participate in investigative or other procedures conducted at his own request with the aid of his defence counsel;

90.7.16. to present evidence and other materials for inclusion in the case file;

90.7.17. to object to the acts of the prosecuting authority and to have such objection placed on the record of the investigative or other procedures;

90.7.18. to acquaint himself with the record of the investigative and other procedures in which he participates, to make observations about the accuracy and completeness of the written record; to require the inclusion of the necessary circumstances in the record while taking part in investigative and other procedures;

90.7.19. to be informed by the prosecuting authority of its decisions which affect his rights and legal interests and, on request, to receive copies of those decisions;

90.7.20. to complain against decisions and acts of the preliminary investigator, investigator, prosecutor or court as well as to withdraw his own complaint and that of his defence counsel;

90.7.21. to be reconciled with the victim;

90.7.22. to be reimbursed for the costs incurred during the proceedings and to receive compensation for prejudice incurred as a result of unlawful acts by the prosecuting authority;

90.7.23. to be acquitted if the suspicion is not confirmed;

90.7.24. to exercise the other rights provided for in this Code.

90.8. If the suspect independently conducts his own defence, he shall exercise all the rights of defence counsel as provided for in this Code, as far as is possible in his position.

90.9. Whether the suspect exercises his rights or declines to do so, he shall not thereby suffer prejudice or detriment. Except where he intentionally names a person in the knowledge that he was unconnected with the offence, no liability shall accrue to the suspect on account of his statements and explanations.

90.10. The rights of the suspect shall be exercised by his legal representative in accordance with this Code if the suspect is under age or lacks legal capacity.

90.11. The suspect shall fulfil the following duties in accordance with this Code:

90.11.1. to attend as required by the prosecuting authority;

90.11.2. to submit to a search and body search when detained;

90.11.3. to be medically examined, to have his fingerprints taken, to be photographed, to have samples of blood and body fluids taken;

90.11.4. to be examined;

90.11.5. to submit to an expert opinion;

90.11.6. to comply with the instructions of the preliminary investigator, investigator, prosecutor or court president;

90.11.7. to fulfil the other duties provided for in this Code.

Article 91. The accused

91.1. The individual whom the investigator, prosecutor or court decides to charge shall be referred to as the accused.

91.2. A person who is charged with having committed a criminal offence unwittingly or when under age shall also be considered as the accused. Besides the additions and exceptions provided for in this Code, he shall also have the rights and duties of the accused.

91.3. The person shall no longer be considered as the accused from the time when the prosecution against him is discontinued.

91.4. The investigator, prosecutor or court shall guarantee the rights of the accused, shall not prevent him from exercising his right of defence by all lawful means and methods and, if he so requests, shall allow him sufficient time for the preparation of his defence.

91.5. The accused shall exercise the following rights in accordance with this Code:

91.5.1. to know what he is accused of (content, factual description and legal classification of the charge) and to receive a copy of the corresponding decision immediately after the charge is brought, the accused is remanded in custody or the decision on the choice of restrictive measure is announced;

91.5.2. to receive written notification of his rights from the person who detained or arrested him or from the preliminary investigator, investigator or prosecutor;

91.5.3. to acquaint himself with the record of detention and arrest immediately after it is drawn up and to make observations for inclusion in the record;

91.5.4. to have defence counsel from the time of the arrest or the announcement of the charge;

91.5.5. to have the help of defence counsel free of charge;

91.5.6. to inform his family, relatives, home, workplace or place of study immediately after detention, by telephone or other means;

91.5.7. to choose his defence counsel independently, to dismiss counsel and to conduct his own defence if he waives the right to defence counsel;

91.5.8. to have unlimited opportunities and time to meet his defence counsel in private and in confidence;

91.5.9. to be questioned at his own request with his defence counsel present;

91.5.10. to give statements, not to incriminate himself or his relatives and in general to refuse to testify as well as to give or refuse to give statements concerning the charge against him;

91.5.11. to give statements in his mother tongue or in a language he knows;

91.5.12. to have the help of an interpreter free of charge;

91.5.13. to raise objections and to submit applications;

91.5.14. to participate in investigative or other procedures or to refrain from participating in them unless this is prohibited by another provision of this Code;

91.5.15. to participate in investigative or other procedures conducted at his own request with the help of his defence counsel;

91.5.16. to present evidence and other material for inclusion in the case file and examination by the court;

91.5.17. to plead guilty or not guilty;

91.5.18. to object to the acts of the prosecuting authority and to have such objections noted in the records of investigative and other procedures;

91.5.19. to acquaint himself with the records of investigative or other procedures in which he takes part, to make observations on the accuracy and completeness of the written record, and when participating in

investigative or other procedures and in court hearings, to require the inclusion of the necessary circumstances in the appropriate record;

91.5.20. to take cognisance of decisions on expert reports and of the experts' opinions;

91.5.21. to take cognisance of documents presented to the court by the prosecuting authority confirming that the arrest and detention on remand are lawful and justified;

91.5.22. to take cognisance of the case file from the end of the investigation or the discontinuation of the criminal proceedings and to make copies of the necessary documents relating to it;

91.5.23. to object to the discontinuation of the criminal proceedings without grounds of acquittal;

91.5.24. to demand a public hearing within a reasonable time;

91.5.25. to participate in court hearings at first instance and on appeal and in the examination of the case file;

91.5.26. to participate in the selection of jurors in the court hearing at first instance;

91.5.27. when conducting his own defence, to make an introductory statement (pleading either guilty or not guilty of the charge against him and stating whether or not he recognises the civil claim), to speak and to reply at hearings of first instance and appeal courts;

91.5.28. to make a final statement in court;

91.5.29. to be informed by the prosecuting authority of the decisions which affect his rights and legal interests and, on request, to receive copies of those decisions, including those concerning the choice of restrictive measure, the conduct of investigative or other coercive procedural measures, the charging of the accused and the announcement of the charge, and copies of the indictment, civil claim, judgment, other final decisions of the court and complaints and appeals to the appeal courts and the Supreme Court;

91.5.30. to lodge complaints against the decisions and acts of the preliminary investigator, investigator or prosecutor;

91.5.31. to appeal against the judgment and other decisions of the court to the court of appeal and the Supreme Court, or to the latter on additional appeal, and to receive copies of those decisions;

91.5.32. to acquaint himself with the record of the court hearing and to add observations to it;

91.5.33. to withdraw any complaint lodged by himself or his defence counsel;

91.5.34. to be reconciled with the victim;

91.5.35. to express objections to circumstances made known to him through information brought to his attention by the prosecuting authority or through complaints made by the other parties to the criminal proceedings;

91.5.36. to participate in appeal court hearings and Supreme Court hearings on appeal, on additional appeal and on the basis of newly discovered facts, further to a complaint of his own, if he is not held on remand and if he objects to a complaint by another party to the proceedings and to take part in the court's examination of the case file;

91.5.37. to be informed of appeals and complaints relating to the case and to raise objections to them;

91.5.38. to express opinions on applications and suggestions by other parties to the criminal proceedings as well as on matters being decided by the court;

91.5.39. to object to unlawful acts of the opposite party to the criminal proceedings;

91.5.40. to be reimbursed for costs incurred during the proceedings and receive compensation for prejudice caused by unlawful acts of the prosecuting authority;

91.5.41. to be acquitted if the charge is not proved;

91.5.42. to exercise the other rights provided for in this Code.

91.6. When independently conducting his own defence, the accused shall exercise all the rights of his defence counsel as provided for in this Code, as far as is possible in his position.

91.7. The accused's exercise of or refusal to exercise his rights shall not cause him to suffer prejudice or detriment. Except where he intentionally names a person in the knowledge that he was unconnected with the offence, no liability shall accrue to the accused on account of his statements and submissions.

91.8. The accused shall fulfil the following duties in accordance with this Code:

91.8.1. to attend as required by the prosecuting authority;

91.8.2. to submit to a search and body search when detained;

91.8.3. to be medically examined, to have fingerprints taken, to be photographed, to have samples of his blood and body fluids taken;

91.8.4. to be examined;

91.8.5. to submit to an expert opinion;

91.8.6. to comply with the instructions of the preliminary investigator, investigator, prosecutor or the president of the court;

91.8.7. to not leave the courtroom during the hearing without the permission of the president, until a break is announced;

91.8.8. to observe the rules of court;

91.8.9. to fulfil the other duties provided for in this Code.

91.9. The rights of an accused person who is under age or lacks legal capacity shall be exercised in his stead by his legal representative in accordance with this Code.

Article 92. Counsel for the defence

92.1. Only persons entitled to work as lawyers in the Azerbaijan Republic may act as defence counsel in criminal proceedings. The defence counsel shall not be identified with the personality of the suspect or accused or the nature of the criminal case in which he participates.

92.2. The suspect or accused may have several defence counsels. The absence of one defence counsel during those parts of the procedure where the participation of defence counsel is obligatory shall not invalidate them.

92.3. The participation of defence counsel shall be ensured in the following circumstances:

92.3.1. where the suspect or accused so requires;

92.3.2. if the suspect or the accused is dumb, blind, deaf, has other serious speech, hearing, or visual disabilities, or because of serious chronic illness, mental incapacity or other defects cannot exercise the right to defend himself independently;

92.3.3. if during the criminal proceedings the mental illness of the suspect or the accused worsens or if a temporary mental disorder is diagnosed;

92.3.4. if the suspect or the accused does not know the language used in court;

92.3.5. if the suspect or the accused is under age at the time of committing the offence;

92.3.6. if the suspect or the accused is engaged on temporary military service;

92.3.7. if the suspect or the accused is charged with an especially serious offence;

92.3.8. if the suspect or the accused is forcibly detained in a special medical institution (psychiatric hospital);

92.3.9. if the suspect or accused is in detention or the accused is held on remand as a restrictive measure (excluding the circumstances provided for in Article 153.2. of this Code);

92.3.10. if the criminal prosecution is brought after the time limit for prosecution has expired;

92.3.11. if the interests of the accused persons diverge and one of them has defence counsel;

92.3.12. if the criminal prosecution is brought against a person who committed the offence unwittingly;

92.3.13. if the suspect or the accused lacks legal capacity;

92.4. The participation of defence counsel shall be ensured in the criminal proceedings from the following times:

92.4.1. when the suspect or the accused asks for defence counsel, in the case provided for in Article 92.3.1. of this Code;

92.4.2. when the person is questioned for the first time, when he is informed of the prosecuting authority's decision to detain him, of the record of his detention or of the choice of restrictive measure, or when the charges are brought, in the cases provided for in Articles 92.3.2, 92.3.4, 92.3.5 and 92.3.7 of this Code;

92.4.3. when the person is diagnosed as ill or unable to understand, in the cases provided for in Article 92.3.3 and 92.3.12 of this Code;

92.4.4. when the decision to charge him as the accused is taken, in the cases provided for in Article 92.3.6 and 92.3.10 of this Code;

92.4.5. when the submissions of the prosecutor concerning placement of the suspect or the accused in a special medical institution (psychiatric hospital) are considered in court, in the case provided for in Article 92.3.8 of this Code;

92.4.6. when the suspect or the accused is detained or when the submission of the prosecutor on the choice of detention on remand as a restrictive measure are considered in court, in the case provided for in Article 92.3.9 of this Code;

92.4.7. when the charge against the accused is examined in court, in the case provided for in Article 92.3.11 of this Code;

92.4.8. when it is established that the suspect or the accused lacks legal capacity for civil proceedings or for criminal proceedings, in the case provided for in Article 92.3.13 of this Code.

92.5. If the suspect or the accused waives his right to defence counsel, his renewed request for defence counsel on the basis of Article 92.3.1 of this Code shall not entail the compulsory participation of defence counsel after the start of the court's examination of the case.

92.6. The compulsory participation of defence counsel shall be ensured by the prosecuting authority. If the criminal prosecution takes the form of a private prosecution, the court shall ensure the participation of defence counsel from time when it accepts jurisdiction for the complaint lodged as part of a private prosecution.

92.7. The defence counsel who takes responsibility for defending the suspect or the accused shall present the prosecuting authority with documents which confirm his identity and his entitlement to work as a lawyer in the territory of the Azerbaijan Republic as well as the bar association's authorisation;

92.8. If the conditions provided for in Article 92.7. of this Code are not met, the prosecuting authority shall give a reasoned decision on the refusal to permit the person to act as defence counsel in the criminal proceedings.

92.9. Defence counsel shall exercise the following rights in accordance with this Code:

92.9.1. to be informed of the nature of the suspicion or the charge;

92.9.2. to have unlimited opportunities and time to meet his client in private and in confidence;

92.9.3. to participate at the suggestion of the prosecuting authority in investigative and other procedures conducted by the authority as well as in any investigative or other procedures involving the participation of his client;

92.9.4. to remind the suspect or the accused of his rights and to draw the attention of the person

conducting investigative or other procedures to infringements of the law by that person;

92.9.5. during pre-trial or court proceedings, to collect evidence and other material for inclusion in the case file or examination in court and to submit them to the prosecuting authority;

92.9.6. to lodge objections and applications;

92.9.7. to object to the acts of the prosecuting authority, and to require them to be noted in the record of the investigative or other procedure;

92.9.8. to acquaint himself with the records of the investigative and other procedures held with his participation or that of his client and with the records of the court hearings; to make observations on the accuracy and completeness of the written records of the investigation and other procedures in which he participates; when participating in investigative and other procedures, to require the inclusion of the necessary circumstances in the appropriate record;

92.9.9. to collect evidence to elucidate matters connected with the defence of the suspect or the accused; for this purpose, when the criminal prosecution takes the form of a private prosecution, to question individuals and legal entities with their consent, and to consult experts and specialists on the basis of an agreement;

92.9.10. further to a decision of the prosecuting authority to appoint experts, to acquaint himself with the decision, with the expert opinion and with the documents submitted to the court by the prosecuting authority to certify that detention, arrest or detention on remand is legal and justified;

92.9.11. to acquaint himself with the case file from the end of the investigation or the discontinuation of the criminal proceedings, and to make copies of the necessary documents relating to his client;

92.9.12. to participate in court hearings at first instance and on appeal and in the examination of the case file;

92.9.13. to participate in selecting jurors at the hearing at first instance;

92.9.14. to speak and reply at court hearings at first instance and on appeal and to speak on the matters examined in the Supreme Court;

92.9.15. to be informed by the prosecuting authority of decisions which affect his rights and legal interests and, on request, to receive copies of those decisions, including those concerning the choice of restrictive measures, the conduct of investigative or other coercive procedures, the charging of the accused and the announcement of the charge, as well as the indictment, civil claim, judgment and other final decisions of the court, and appeals and complaints to the court of appeal or the Supreme Court;

92.9.16. to object to acts and decisions of the preliminary investigator, investigator or prosecutor;

92.9.17. to appeal against the judgment or other decisions of the court to the court of appeal or, on appeal or additional appeal, to the Supreme Court;

92.9.18. withdraw any complaint he has filed, except an appeal against the conviction;.

92.9.19. on his client's instructions, to promote the reconciliation of the suspect or the accused with the victim;

92.9.20. to raise objections to circumstances made known to him through information given to him by the prosecuting authority or through complaints of other parties to the proceedings;

92.9.21. to participate in the hearing of the criminal case before the Supreme Court concerning a complaint relating to his client's legal rights, either on appeal, on additional appeal or on the basis of newly discovered facts, and in the examination of the case file;

92.9.22. at court hearings, to express his opinions about applications and suggestions by other parties to the criminal proceedings and about matters to be decided by the court;

92.9.23. to object to unlawful acts by the opposite party;

92.9.24. to receive payment for the legal aid furnished to the suspect or the accused in the course of the criminal proceedings, from his client or, if legal aid is rendered free of charge, from the state budget of the Azerbaijan Republic;

92.9.25. to exercise the other rights proved for in this Code.

92.10. Defence counsel shall be prohibited from:

92.10.1. taking any action that is at variance with the legal interests of his client, which includes confirming his link with the offence and his guilt, admitting the civil claim against him, refusing to participate in the procedures involving him and preventing him from exercising his rights;

92.10.2. divulging information made known to him in connection with the provision of legal aid if it can be used in a manner contrary to the legal interests of his client, except if he receives information about the planning or commission of a further offence or if he objects to the reasons given by his client during examination of the lawyer's liability further to a claim by his client that he is not defending him properly;

92.10.3. unilaterally refusing to defend his client or withdrawing as counsel for the defence, or defending two or more accused persons whose legal interests conflict;

92.10.4. preventing the participation or instruction of another defence counsel;

92.10.5. entrusting his authority to participate in the criminal proceedings to another counsel;

92.10.6. without his client's consent, calling somebody as a witness or expert, announcing a link between the suspect or accused and the offence or his guilt of the offence, announcing his reconciliation with the victim, admitting the civil claim or withdrawing his client's complaint or his appeal against the conviction

92.11. Counsel for the defence shall fulfil the following duties in accordance with this Code:

92.11.1. when taking part in criminal proceedings, to observe the requirements of the law; to defend the suspect or the accused using all legal means; to give the necessary legal advice to his client in order to terminate the case to his advantage as far as possible, and to act in accordance with the position chosen by the defence; to observe professional confidentiality and the lawyers' oath.

92.11.2. to present to the prosecuting authority a document confirming the authority of defence counsel and to observe legal ethics during the proceedings;

92.11.3. to attend as required by the prosecuting authority in order to provide legal aid to the suspect or the accused;

92.11.4. to submit, with the consent of his client, items and documents to the prosecuting authority if they are not contrary to the interests of his client;

92.11.5. to comply with the instructions of the court president;

92.11.6. to not leave the courtroom without the permission of the president before a break is announced;

92.11.7. to comply with the rules of court;

92.11.8. not to divulge the information about circumstances concerning the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

92.11.9. to fulfil the other duties provided for in this Code.

92.12. A refusal of the suspect or the accused to accept defence counsel shall be mentioned in the record. The preliminary investigator, investigator, prosecutor or court shall admit the refusal to accept the defence counsel only if the suspect or the accused makes the application on his own initiative, voluntarily and with the

participation of defence counsel or the lawyer to be appointed as defence counsel. Refusal to accept defence counsel shall not be admitted if the suspect or the accused is unable to pay for legal aid or in the cases provided for in Articles 92.3.2-92.3.5, 92.3.8, 92.3.12 and 92.3.13 of this Code; defence counsel shall then be appointed for him compulsorily, or the lawyer appointed as defence counsel shall retain his authority.

92.13. The suspect or the accused shall be regarded as defending himself independently from the moment when he refuses defence counsel. A person who has refused defence counsel shall have the right to change his position after the admission of this refusal, at any time in criminal proceedings before the beginning of the court examination of the case.

92.14. The preliminary investigator, investigator, prosecutor or court shall have no right to suggest that the suspect or the accused instruct a certain defence counsel. However, they shall request the head of the bar association in the appropriate area to appoint defence counsel from the list of lawyers in the following circumstances:

92.14.1. at the request of the suspect or the accused;

92.14.2. in cases where the participation of defence counsel in the criminal proceedings is compulsory and the suspect or the accused does not have defence counsel.

92.15. The preliminary investigator, investigator, prosecutor or court shall have the right to request the head of the bar association in the appropriate area to replace defence counsel with another lawyer in the following circumstances:

92.15.1. if the lawyer chosen as defence counsel does not come to meet the suspect or the accused within 6 hours of his detention or arrest;

92.15.2. if defence counsel does not come to participate in the necessary investigative and other procedures as part of the criminal proceedings for a long period (in any case not longer than 5 (five) days) and the prosecuting authority cannot delay the said acts any further.

92.16. The lawyer acting as defence counsel shall be regarded as no longer participating in the proceedings in the following circumstances:

92.16.1. if he has no authority to participate in the proceedings;

92.16.2. if the suspect or the accused refuses him (if the agreement is terminated);

92.16.3. if the prosecuting authority establishes circumstances which preclude participation by defence counsel in the criminal proceedings and removes him.

92.17. If the prosecuting authority does not accept the suspect's or the accused's refusal of defence counsel, the latter's participation in the proceedings shall not be terminated.

Article 93. The defendant to the claim by the civil party

93.1. The person referred to as defendant to the claim by the civil party shall be someone who can legally be held materially liable for the material damage caused by a criminal offence.

93.2. The decision to recognise a person as defendant to the civil claim may be made by the preliminary investigator, investigator, prosecutor or court. If there are not sufficient grounds to recognise the person as defendant to the civil claim at the time when the claim is brought, that decision shall be taken as soon as sufficient grounds are determined.

93.3. After recognition of the person as defendant to the civil claim, if it is determined that it is not possible to hold him materially liable for the acts of the accused or that there are no other grounds for him to remain as defendant to the civil claim, the preliminary investigator, investigator, prosecutor or court shall terminate his participation in the criminal proceedings as defendant to the civil claim by means of a reasoned decision.

93.4. The defendant to the civil claim shall exercise the following rights in accordance with this Code:

93.4.1. to know the nature of the charge;

93.4.2. to give statements and make submissions concerning the claim against him;

93.4.3. to present evidence and other documents for inclusion in the criminal case file and for examination in court;

93.4.4. to raise objections and lodge applications;

93.4.5. for the purpose of securing the claim against him, to deposit money, stocks and gold with the public bank for safe keeping;

93.4.6. to object to the acts of the prosecuting authority and to require that the objections be noted in the records of investigative and other procedures;

93.4.7. to acquaint himself with the records of the investigative and other procedures in which he takes part, to make observations on the accuracy and completeness of the written record and when participating in investigative or other procedures or in the court hearing, to require the inclusion of necessary additions in the record; to acquaint himself with the record of the hearing and to make observations thereon;

93.4.8. from the end of the investigation or the discontinuation of the criminal proceedings, to acquaint himself with the case file and to make copies of the necessary documents relating to it;

93.4.9. to participate in court hearings at first instance and on appeal and in the examination of the case file;

93.4.10. to speak and reply at hearings at first instance and on appeal in the absence of his representative;

93.4.11. to be informed by the prosecuting authority of the decisions it has taken which affect his rights and legal interests and, on request, to receive copies of those decisions;

93.4.12. to take copies of the indictment, judgment or other court decisions;

93.4.13. to object to decisions or acts of the preliminary investigator, investigator or prosecutor, to the part of the judgment concerning the claim against him and to other final decisions of the court;

93.4.14. to withdraw any complaint of his own or of his representative;

93.4.15. to object to a part of the claim made known to him through the information given to him by the prosecuting authority or through the complaints of the other parties to the criminal proceedings;

93.4.16. to take part in the hearing of the criminal case before the Supreme Court on appeal, on additional appeal or on the basis of newly discovered facts, further to a complaint of his own concerning his legal rights, or to object to a complaint by other parties to the criminal proceedings, and to participate in the examination of the case file;

93.4.17. at the court hearing, to give his opinion on the applications and suggestions of other parties to the proceedings as well as on matters to be decided by the court;

93.4.18. to object to unlawful acts by the opposite party in the proceedings;

93.4.19. to have a representative and to dismiss him;

93.4.20. to accept the civil claim at any time during the criminal proceedings;

93.4.21. to be reimbursed for the costs incurred during the criminal proceedings and receive compensation for damage caused by unlawful acts of the prosecuting authority;

93.4.22. to recover property and the originals of official documents taken as material evidence or on other grounds by the prosecuting authority;

93.4.23. to exercise the other rights provided for in this Code.

93.5. The defendant to the civil claim shall fulfil the following duties in accordance with this Code:

93.5.1. to attend as required by the prosecuting authority;

93.5.2. to present items, documents and samples for comparative examination at the request of the prosecuting authority;

93.5.3. to comply with the instructions of the preliminary investigator, investigator, prosecutor or court president;

93.5.4. not to leave the courtroom during the hearing without the permission of the president until a break is announced;

93.5.5 to comply with the rules of court;

93.5.6. not to divulge information about circumstances affecting the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

93.5.7. to fulfil the other duties provided for in this Code.

93.6. The defendant to the civil claim may be questioned as a witness by the prosecuting authority.

93.7. The defendant to the civil claim shall exercise his rights and fulfil his duties either in person or with the aid of his representative.

Chapter X

OTHER PARTIES TO THE CRIMINAL PROCEEDINGS

Article 94. Circumstantial witness

94.1. A person who has no personal interest and who is summoned to participate of his own accord in the investigation in the circumstances covered by Articles 236, 244 and 246 of this Code, in order to confirm the substance, course and outcome of the facts, may be referred to as a circumstantial witness. Persons who are employees of the preliminary investigating, investigating or prosecuting authorities or the courts, who are under age, who are not citizens of the Azerbaijan Republic, who are parties to the criminal proceedings or close relatives of parties, and those who have visual, hearing or speech disabilities or who suffer from a mental illness may not be circumstantial witnesses in a criminal case. A person called as a circumstantial witness shall be able to comprehend fully and correctly events that occurred in his presence.

94.2. A circumstantial witness shall fulfil the following duties in accordance with this Code:

94.2.1. to attend as required by the prosecuting authority;

94.2.2. to disclose all relationships to the parties to the criminal proceedings at the request of the prosecuting authority;

94.2.3. to comply with the instructions of the person carrying out the investigative procedure;

94.2.4. during the investigative procedure in which he takes part, to follow events carefully, and not to leave the place where the procedure is taking place;

94.2.5. to sign the record of the relevant procedure and refuse to sign it if his observations are not reflected in the record;

94.2.6. not to divulge information about the investigative procedure in which he is participating or about facts disclosed during it without the permission of the prosecuting authority; not to divulge information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets;

94.2.7. to fulfil the other duties provided for in this Code.

94.3. A circumstantial witness shall be liable under the legislation of the Azerbaijan Republic for violations of the law in the fulfilment of his duties.

94.4. A circumstantial witness shall exercise the following rights in accordance with this Code:

94.4.1. to participate in the relevant investigative procedure from beginning to end;

94.4.2. to acquaint himself with the record of the investigative procedure in which he has taken part, and to require the inclusion of the necessary facts in the appropriate record;

94.4.3. when acquainted with the relevant investigative measures and the record, to raise objections;

94.4.4. to sign the record only if he understands it;

94.4.5. to be reimbursed for costs incurred in the criminal proceedings and receive compensation for damage incurred as a result of unlawful acts by the prosecuting authority;

94.4.6. to exercise the other rights provided for in this Code.

Article 95. Witnesses

95.1. A person who is aware of any important circumstances may be summoned and questioned as a witness by the prosecution during the investigation or the court hearing and by the defence during the court hearing.

95.2. The following persons may not be called or questioned as witnesses:

95.2.1. those who because they are under age or because of their physical or mental disabilities cannot understand and testify about the matters to be investigated in the criminal proceedings;

95.2.2. lawyers who have information relating to the criminal proceedings in connection with their legal services as defence counsel;

95.2.3. persons who have information relating to the criminal proceedings in connection with their participation therein as representative of the victim, civil party or defendant to the civil claim;

95.2.4. except in cases where there have been deficiencies or misuse of power during the criminal prosecution, where the case is reopened because of newly discovered facts or where a lost case file is restored, the judge, jurors, prosecutor, preliminary investigator, investigator or clerk of the court who have exercised their procedural responsibilities in connection with the criminal proceedings.

95.3. Defence counsel and persons who have information on the criminal case in connection with their participation as representatives of the victim, civil party or defendant to the civil claim may testify in favour of the person they are defending or whose rights they represent, with that person's consent. This shall preclude the subsequent participation of those persons in the criminal proceedings.

95.4. The witness shall fulfil the following duties in accordance with this Code:

95.4.1. to attend and participate in the investigation and other procedures as required by the prosecuting authority and to answer questions fully and correctly on all facts known to him;

95.4.2. to confirm the accuracy of his testimony by signing the record of the investigative or other procedure;

95.4.3. to present items, documents and samples for comparative examination at the request of the prosecuting authority;

95.4.4. to be examined at the request of the prosecuting authority;

95.4.5. if there are strong grounds for doubting his ability to comprehend and testify, to undergo an outpatient medical examination at the request of the prosecuting authority in order to verify those abilities;

95.4.6. to comply with the instructions of the preliminary investigator, investigator, prosecutor and court president;

95.4.7. to be at the disposal of the court, not to go elsewhere without the permission of the court or without notifying the prosecuting authority of his whereabouts;

95.4.8. not to leave the courtroom or the court building without the permission of the president before a break is announced;

95.4.9. to comply with the rules of court;

95.4.10. to fulfil the other duties provided for in this Code.

95.5. If the witness does not fulfil his duties, he shall incur liability under the legislation of the Azerbaijan Republic.

95.6. The witness shall exercise the following rights in accordance with this Code:

95.6.1. to know for which criminal case he is called;

95.6.2. to object to the interpreter participating in his interrogation;

95.6.3. to make requests;

95.6.4. to refuse to testify or present documents or information against himself or his close relatives;

95.6.5. while testifying, with the permission of the prosecuting authority, to use documents relating to complicated mathematical calculations, numerous geographical names and other information difficult to memorise, and to refer to notes written during the incident or immediately afterwards;

95.6.6. to accompany his testimony with drawings, diagrams and pictures;

95.6.7. to write his testimony down during the pre-trial proceedings;

95.6.8. to acquaint himself with the record of the investigative and other procedures in which he takes part, as well as the part of the record of the court hearing relating to him, and to require inclusion of the necessary appendices and observations in the record, for the accuracy and completeness of the testimony;

95.6.9. to be reimbursed for the costs incurred during the criminal proceedings and to receive compensation for damage incurred as a result of unlawful acts by the prosecuting authority;

95.6.10. to recover the items and originals of official documents taken by the prosecuting authority as material evidence or on other grounds;

95.6.11. when investigative and other procedures take place, to be represented;

95.6.12. to exercise the other rights provided for in this Code.

Article 96. Specialists

96.1. A specialist shall be a person who has no personal interest in the proceedings, appointed by the prosecuting authority to assist in investigative and other procedures through his special knowledge and skills in science, technology, the arts and other professional fields, with his consent. A teacher who participates in questioning an under-age victim, suspect, accused or witness shall be considered as a specialist. A specialist may be appointed from the list of persons suggested by the parties to the criminal proceedings.

96.2. A specialist shall have sufficient knowledge and skills to assist the prosecuting authority.

96.3. He may not be appointed as a specialist on the judicial aspects of the criminal proceedings or be called in any other capacity. The opinion of the specialist shall not replace that of the expert.

96.4. A specialist shall fulfil the following duties in accordance with this Code:

96.4.1. to attend as required by the prosecuting authority in order to furnish the necessary assistance;

96.4.2. to present documents confirming his specialist professional status to the prosecuting authority; to estimate correctly his ability to provide the necessary assistance;

96.4.3. to inform the prosecuting authority of his professional experience and his relationship to the parties to the criminal proceedings;

96.4.4. throughout the time when his assistance is necessary, to be present at the place where the investigative or other procedure is taking place or in the courtroom, and not to leave the former without the permission of the person carrying out the procedure or the latter without the permission of the court president;

96.4.5. in order to assist the person carrying out the investigative or other procedure, draw on his skills and knowledge to find, consolidate and seize documents and other items, use technical means and computer programs, examine the case file and put questions to the expert, and explain questions and procedures relevant to his profession to the person or authority in charge of the prosecution or to the parties to the criminal proceedings in court;

96.4.6. to comply with the instructions of the preliminary investigator, investigator, prosecutor or president of the court;

96.4.7. to comply with the rules of court;

96.4.8. to confirm by his signature the accuracy and completeness of the conduct, subject-matter and results of procedures involving him;

96.4.9. unless the prosecuting authority so permits, not to divulge information about investigative or other procedures in which he has taken part, facts ascertained or court hearings held in camera; not to divulge information known to him about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

96.4.10. to fulfil the other duties provided for in this Code.

96.5. Failure of a specialist to fulfil his duties shall entail liability under the legislation of the Azerbaijan Republic.

96.6. The specialist shall exercise the following rights in accordance with this Code:

96.6.1. with the permission of the prosecuting authority, to acquaint himself with the case file and put questions to the parties to the criminal proceedings in order to fulfil his duties more efficiently;

96.6.2. to draw the attention of the parties to the finding, consolidation and seizure of documents and other items, the use of technical means and computer programs, the examination of the case file, the questions to the expert and the content of the questions relating to his own profession;

96.6.3. to make observations for inclusion in the record on the finding, consolidation and seizure of documents and other items, the use of technical means and computer programs, the examination of the case file and the questions to the expert;

96.6.4. to acquaint himself with the record of the investigative or other procedures in which he takes part as well as with the appropriate part of the record of the court hearing, and to make observations for inclusion in the record on the accuracy and completeness of the written records reflecting the conduct, subject-matter and results of these procedures;

96.6.5. to be reimbursed for the costs incurred during the criminal proceedings and receive compensation for damage caused by unlawful acts of the prosecuting authority;

96.6.6. to be paid for the work done;

96.6.7. to exercise the other rights provided for in this Code.

Article 97. Experts

97.1. An expert shall be a person who is competent to give an opinion based on his special knowledge of science, technology, the arts and other professional fields, who has no personal interest in the proceedings and is appointed by the prosecuting authority or, at its request, by the head of his professional association, with his consent, for the examination of the case file.

97.2. The expert shall have sufficient special knowledge of scientific, technical, artistic and other professional fields to give his opinion on the questions put before him.

97.3. A person may not be appointed as an expert or be called in another capacity on judicial aspects of the criminal proceedings.

97.4. The expert shall fulfil the following duties in accordance with this Code:

97.4.1. to give reasoned and objective opinions on the matters put before him; in those opinions, to meticulously distinguish between the conclusions he personally reaches in examining the case file, the correctness of which he shall verify, and the conclusions he reaches using computer programs and other data;

97.4.2. to refuse to give an opinion if the questions put before him are outside his specialist knowledge or if the material presented is not sufficient to enable him to answer the question; if he decides that it is impossible to give an opinion because of the above-mentioned circumstances, to refuse to continue to provide his expertise; such reasoned refusal shall be notified in writing to the person who commissioned his services;

97.4.3. to present, at the request of the prosecuting authority, the estimated cost of providing the expertise and a statement of actual expenditure;

97.4.4. to present written opinions to the parties to the criminal proceedings, to explain the content of those opinions, to answer their questions and to attend as required by the prosecuting authority in order to give verbal opinions explaining the written opinion;

97.4.5. to present documentary evidence of his professional status to the prosecuting authority and to the person who commissioned his services; at the request of that authority or person and, in court, of the parties to the criminal proceedings, to properly assess his ability to deal with the matters presented;

97.4.6. at the request of the prosecuting authority and, in court, of the parties to the criminal proceedings to provide information about his professional experience and his relations with the participants in the relevant criminal proceedings;

97.4.7. when participating in investigative or other procedures, not to absent himself without the permission of the person in charge of the procedure or the president of the court;

97.4.8. to comply with the instructions of the preliminary investigator, investigator, prosecutor or president of the court;

97.4.9. to comply with the rules of court;

97.4.10. unless the prosecuting authority so permits, not to divulge information about the investigative or other procedures in which he has taken part or about facts determined at that time, or information about court hearings held in camera; not to divulge information known to him about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

97.4.11. to fulfil the other duties provided by this Code.

97.5. Failure of an expert to fulfil his duties shall make him liable under the legislation of the Azerbaijan Republic.

97.6. The expert shall exercise the following rights in accordance with this Code:

97.6.1. in order to give an opinion, to obtain the necessary objects and samples for the purpose of comparative examination; to request the presentation of additional objects and other items;

97.6.2. in order to give his opinion, and with the permission of the prosecuting authority, to acquaint himself with the necessary documents and extract the necessary information from the case file, and in order to fulfil his duties better, to put questions to the suspect, the accused, victims and witnesses;

97.6.3. to participate in the investigative or other procedures relating to the subject-matter of the opinion which are necessary to enable him to give an opinion;

97.6.4. to give his opinion on the questions put before him and on other circumstances covered by the expert opinion which are discovered during the examination of the case file documents relating to his special field;

97.6.5. to draw the attention of the court or the parties to criminal proceedings to circumstances relating to the subject-matter of the expert opinion and to the substance of the questions to the relevant expert;

97.6.6. to acquaint himself with the record of the investigative or other procedures in which he takes part as well as with the appropriate part of the record of the court hearing, and to make observations for inclusion in the record on the accuracy and completeness of these procedures and of his verbal opinion;

97.6.7. to be reimbursed for the costs incurred during the criminal proceedings and receive compensation for prejudice caused by unlawful acts of the prosecuting authority;

97.6.8. to be paid for the work done;

97.6.9. to exercise the other rights provided for in this Code.

Article 98. The court clerk

98.1. A court employee who does not have a personal interest in the criminal proceedings shall be appointed court clerk to draw up a record of the court hearings.

98.2. The court clerk shall perform the following duties in accordance with this Code:

98.2.1. to be present in the courtroom throughout the time required to draw up the record of the hearing, and not to leave the room without the permission of the court president;

98.2.2. to fully and accurately record the course of the court proceedings, the court decisions, the applications, objections, evidence and submissions of parties to the proceedings and the other matters which must be mentioned in the record;

98.2.3. to prepare and sign the record of the hearing within the period prescribed in Article 51.7. of this Code;

98.2.4. to give information about his relationship with the participants in the criminal proceedings at the request of the court or of parties to the proceedings;

98.2.5. to obey the instructions of the court president;

98.2.6. not to divulge information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

98.2.7. to perform the other duties provided for in this Code.

98.3. The court clerk shall bear personal responsibility for the accuracy and completeness of the record of the criminal hearing and shall accept no instructions on the contents of the written record.

98.4. If the court clerk does not perform his duties, he shall be liable under the legislation of the Azerbaijan Republic.

Article 99. Interpreters

99.1. The interpreter shall be a person who has no personal interest in the criminal proceedings and is appointed with his consent by the prosecuting authority to translate the case documents as well as all the verbal exchanges held during court hearings and investigative or other procedures. The interpreter may be appointed from the list of interpreters proposed by the parties to the criminal proceedings.

99.2. The interpreter shall have fluent knowledge of the language used during the court proceedings and the target language. Even if a judge, juror, prosecutor, investigator, preliminary investigator, defence counsel, representative or other party to the proceedings, circumstantial witness, court clerk, expert or witness knows the languages in question, they shall not take upon themselves the interpreting duties.

99.3. A person who understands the signs of the dumb and the deaf or a person able to communicate with them in sign language shall be considered as an interpreter.

99.4. The interpreter shall perform the following duties in accordance with this Code:

99.4.1. to attend for interpreting duty as required by the prosecuting authority;

99.4.2. to present to the prosecuting authority documentation which confirms his knowledge of the languages to be interpreted; at the request of the prosecuting authority or, in court, of the parties to the criminal proceedings, to estimate correctly his ability to translate fully and accurately;

99.4.3. at the request of the prosecuting authority or, in court, of parties to the criminal proceedings, to give information about his professional experience and relations with the parties to the relevant criminal proceedings;

99.4.4. to be present in the place where investigative or other procedures are conducted and in the courtroom for all the time during which interpretation is required; not to leave the place where those activities are taking place without the permission of the person conducting them, or the courtroom without the permission of the president;

99.4.5. to interpret fully, accurately and in good time;

99.4.6. to obey the instructions of the preliminary investigator, investigator, prosecutor or court president;

99.4.7. to comply with the rules of court;

99.4.8. to certify by his signature the accuracy and completeness of the translation of the record of the investigative or other procedures in which he takes part and the accuracy of the translation of the documents presented to the parties to the criminal proceedings;

99.4.9. unless the prosecuting authority so permits, not to divulge information relating to the investigative and other procedures in which he has taken part or to the facts established at this time, and not to divulge information on circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

99.4.10. to perform the other duties provided for in this Code.

99.5. If the interpreter does not perform his duties he shall be liable under the legislation of the Azerbaijan Republic.

99.6. The interpreter shall exercise the following rights in accordance with this Code:

99.6.1. in order to clarify the interpretation, to ask the participants questions while interpreting;

99.6.2. to acquaint himself with the records of the investigative and other procedures in which he takes part as well as with the appropriate part of the record of the court hearing and to make observations for inclusion in the record on the accuracy and completeness of the written translation;

99.6.3. to be reimbursed for costs incurred during the criminal proceedings and receive compensation for damage resulting from unlawful acts by the prosecuting authority;

99.6.4. to be paid for the services rendered;

99.6.5. to exercise the other rights provided for in this Code.

Chapter XI

REPRESENTATIVES AND LEGAL HEIRS

Article 100. Capacity to take part in criminal proceedings

100.1. Except those who lack legal capacity, all parties to criminal proceedings who have reached full age may independently exercise the rights provided for in this Code.

100.2. In criminal proceedings the following persons shall be considered to lack legal capacity:

100.2.1. persons defined as lacking legal capacity by the legislation of the Azerbaijan Republic;

100.2.2. victims, civil parties, suspects, accused persons and defendants to a civil claim who are below the age of 14.

100.3. A victim, civil party, suspect, accused or defendant to a civil claim may be regarded as lacking legal capacity in criminal proceedings if he is unable to exercise his rights and fulfil his duties independently as a result of mental illness, temporary mental disorder or imbecility. The court shall restore the legal capacity of such a person who becomes able to exercise his rights and fulfil his duties independently again.

100.4. Between the ages of 14 and 18 a victim, civil party, suspect, accused or defendant to a civil claim shall have limited legal capacity. The possibility of such persons exercising their rights independently as parties to criminal proceedings shall be limited with the consent of their legal representatives.

100.5. The capacity of a victim, civil party, suspect, accused or defendant to a civil claim for the purposes of criminal proceedings shall be determined when the criminal proceedings begin.

100.6. The capacity of parties to criminal proceedings who are under full age but have reached the age of 14 shall be recognised within the appropriate limits by the prosecuting authority.

100.7. A party to criminal proceedings who lacks legal capacity in accordance with this Code may not exercise his rights independently. These rights shall be exercised by his legal representative in accordance with this Code.

100.8. If a victim is considered to lack legal capacity and has no representative his participation in criminal proceedings by means of a private prosecution shall be discontinued, and if the criminal prosecution is carried out as a private prosecution it shall be suspended.

100.9. If a civil party who lacks legal capacity does not have a legal representative, his participation in criminal proceedings shall be discontinued

100.10. If a defendant to a civil claim is considered to lack legal capacity, his participation in the criminal proceedings shall be discontinued and the claim against him shall not be examined within the criminal proceedings.

100.11. A party to criminal proceedings who has limited legal capacity may not do the following without the consent of his legal representative:

100.11.1. withdraw a complaint that an act provided for by criminal law has been committed against him;

100.11.2. be reconciled with the victim, suspect or accused;

100.11.3. accept the civil claim against him;

100.11.4. reject the civil claim against him;

100.11.5. withdraw a complaint lodged in order to defend his legal interests.

Article 101. Legal representatives of the victim, civil party, suspect, accused or defendant to a civil claim

101.1. If a victim, civil party, suspect, accused or defendant to a civil claim lacks or has limited legal capacity and has no parents, adoptive parents or guardian, the prosecuting authority shall appoint the guardianship institution as legal representative of that person.

101.2. The prosecuting authority shall allow only one of the parents, adoptive parents or guardians of the victim, civil party, suspect, accused or defendant to a civil claim who lacks or has limited legal capacity to participate in the criminal proceedings as that person's legal representative.

101.3. If the legal representative of the victim, civil party, suspect, accused or defendant to a civil claim is charged with causing non-material, physical or material damage to the person concerned by means of a criminal act, he shall not be allowed to participate in the criminal proceedings as legal representative.

101.4. If, after recognition of a person as legal representative of the victim, civil party, suspect, accused or defendant to a civil claim, grounds are found which prevent the person from remaining in this position, the prosecuting authority shall give a reasoned decision ending his participation in the criminal proceedings. The participation of the legal representative shall also be discontinued if the victim, civil party, suspect or accused reaches full age or attains legal capacity.

101.5. The legal representative of the victim, civil party, suspect, accused or defendant to a civil claim shall exercise the following rights in accordance with this Code:

- 101.5.1. to know the nature of the charge (in the case of the legal representative of the suspect, to know the nature of the suspicion);
- 101.5.2. to know that the person he represents has been summoned to the prosecuting authority and to accompany him;
- 101.5.3. to have unlimited opportunities and time to meet the person whom he represents in private and in confidence;
- 101.5.4. in the circumstances defined by this Code, and on the proposal of the prosecuting authority, to take part in the authority's investigative and other procedures, as well as in any investigative and other procedures involving the participation of the person he represents;
- 101.5.5. to make submissions;
- 101.5.6. to present evidence and other items for inclusion in the criminal case file or for examination in court;
- 101.5.7. to raise objections and submit applications;
- 101.5.8. to object to the prosecuting authority's acts and request that these objections be noted in the record of the investigative or other procedure;
- 101.5.9. to acquaint himself with the record of the investigative and other procedures carried out with his participation or with that of the person he represents, and with the record of the court hearing; to make observations on the accuracy and completeness of the written record of the investigative and other procedures in which he participates; when participating in these and other procedures and in court hearings, to request the inclusion of the necessary circumstances in the appropriate record;
- 101.5.10. to acquaint himself with the documents submitted to the court by the prosecuting authority to confirm the legality and grounds of the detention, arrest or detention on remand of the suspect or accused whom he represents;
- 101.5.11. from the end of the investigation or the discontinuation of the criminal proceedings, to acquaint himself with the case file and make copies of the necessary documents relating to the person he represents;
- 101.5.12. to participate in court hearings at first instance and on appeal, and in the examination of the case file;
- 101.5.13. if the victim or accused whom he represents does not have a representative or defence counsel, to speak and reply at hearings of first instance and appeal courts, and to speak about the case before the Supreme Court;
- 101.5.14. to be informed by the prosecuting authority of its decisions which affect his rights and legal interests and those of the person he represents and to receive, on request, copies of those decisions from the prosecuting authority;
- 101.5.15. to complain about the decisions and acts of the preliminary investigator, investigator, prosecutor or court, including the judgment and other court decisions;
- 101.5.16. to withdraw any complaint he has lodged;
- 101.5.17. to object to circumstances made known to him through the information given to him by the prosecuting authority or through the complaints of other parties to the criminal proceedings, insofar as they affect the legal interests of the person he represents;
- 101.5.18. in connection with a complaint concerning the legal interests of the person he represents, to participate in the hearing of the criminal case before the Supreme Court on appeal, on additional appeal or on the basis of newly discovered facts, and in the examination of the case file;
- 101.5.19. to give his opinion on applications and suggestions made by other parties to the criminal proceedings during the court hearing, and on the matters to be decided by the court;
- 101.5.20. to object to unlawful acts by the other party;

101.5.21. to appoint and dismiss a suitable defence counsel and representative for the person he represents;

101.5.22. to be reimbursed for the costs incurred during the criminal proceedings and receive compensation for any damage caused by unlawful acts of the prosecuting authority;

101.5.23. to recover property, as well as the originals of official documents, taken from the person he represents as material evidence or on other grounds by the prosecuting authority; to recover property belonging to the person he represents from the person who committed the criminal acts;

101.5.24. to exercise the other rights provided for in this Code.

101.6. The legal representative of a victim, civil party, suspect, accused or defendant to a civil claim shall exercise the rights of the person he represents during the criminal proceedings, excluding inalienable personal rights.

101.7. The legal representative of a person with limited legal capacity shall be entitled:

101.7.1. with the consent of the victim he represents, to withdraw a charge brought on his behalf and to dismiss his lawyer;

101.7.2. to withdraw the complaint concerning the commission of a criminal act against him, to be reconciled with the victim, civil party, suspect, accused or defendant to the civil claim as the case may be, to withdraw a civil claim he has filed, to accept a civil claim filed against him and to withdraw a complaint lodged in defence of his rights and legal interests;

101.7.3. to know the intentions of the person he represents.

101.8. The legal representative of a victim, civil party, suspect, accused or defendant to a civil claim shall not have the right to take any action against the person's legal interests, including refusal of defence counsel on behalf of the accused.

101.9. The legal representative of a victim, civil party, suspect, accused or defendant to a civil claim shall perform the following duties:

101.9.1. to present the prosecuting authority with documentation confirming his authority as legal representative;

101.9.2. to attend as required by the prosecuting authority;

101.9.3. to present, at the request of the prosecuting authority, items, documents and samples for comparative examination;

101.9.4. to obey the instructions of the preliminary investigator, investigator, prosecutor or court president;

101.9.5. not to leave the courtroom without the permission of the court president until a break is announced;

101.9.6. to comply with the rules of court;

101.9.7. not to divulge information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

101.9.8. to perform the other duties provided for in this Code.

101.10. The legal representative of a victim, civil party, suspect, accused or defendant to a civil claim may be questioned as a witness.

101.11. The legal representative of a victim, civil party, suspect, accused or defendant to a civil claim shall exercise his rights and fulfil his duties in person or with the aid of the representative of the person he represents.

Article 102. Representatives of the victim, civil party and defendant to the claim by the civil party

- 102.1. Those who represent the legal interests of a victim, civil party or defendant to a civil claim during criminal proceedings shall be considered as their representatives.
- 102.2. Lawyers and other persons holding power of attorney given by the person concerned and confirmed by a solicitor may participate in criminal proceedings as the representative of the victim, civil party or defendant to the civil claim. If the civil party or defendant to the civil claim is a legal entity, the head of that entity may be allowed to participate in the criminal proceedings on presentation of the requisite document.
- 102.3. After a person has been recognised as representative of a victim, civil party or defendant to a civil claim, his participation in the criminal proceedings may be discontinued by a reasoned decision of the prosecuting authority if it is determined that there are no grounds for this person to remain in the same position. If he is dismissed by the victim, civil party or defendant to the civil claim, his participation as a representative in the criminal proceedings shall be discontinued.
- 102.4. A victim, civil party or defendant to a civil claim may have more than one representative. The prosecuting authority shall have the right to limit the number of representatives taking part in an investigative or other procedure or in the court hearing to one at a time.
- 102.5. The representative of a victim, civil party or defendant to a civil claim shall exercise the rights of the person he represents, excluding inalienable personal rights.
- 102.6. The representative of a victim, civil party or defendant to a civil claim shall exercise the following rights in accordance with this Code:
- 102.6.1. to know the nature of the charge;
 - 102.6.2. at the suggestion of the prosecuting authority and in the circumstances defined by this Code, to participate in the investigative and other procedures conducted by that authority, as well as in any investigative and other procedures involving the participation of the person he represents;
 - 102.6.3. to make submissions;
 - 102.6.4. to present evidence and other items for inclusion in the case file or for examination in court;
 - 102.6.5. to raise objections and file applications;
 - 102.6.6. to object to the acts of the prosecuting authority and request the inclusion of such objections in the records of investigative and other procedures;
 - 102.6.7. to acquaint himself with the record of investigative or other procedures carried out with his participation or that of the person he represents, and with the record of the court hearing; to make observations on the accuracy and completeness of the written record of the investigative and other procedures in which he participates; when participating in investigative or other procedures and in the court hearing, to require the inclusion of the necessary circumstances in the appropriate record;
 - 102.6.8. to acquaint himself with the case file as from the end of the investigation or the discontinuation of the criminal proceedings and to make copies of the necessary documents relating to the person he represents;
 - 102.6.9. to participate in court hearings during the trial as well as in all other court hearings in which the person he represents could participate on the same grounds;
 - 102.6.10. to make an introductory statement, speak or reply, as the case may be, on behalf of the victim, civil party or defendant to the civil claim at hearings of first instance and appeal courts, and to speak on the matter concerned before the Supreme Court;
 - 102.6.11. to object to circumstances made known to him through information given to him by the prosecuting authority or through complaints lodged by other parties to the criminal proceedings, insofar as they affect the legal interests of the person he represents;
 - 102.6.12. exercising the rights of the person he represents, to express his opinion on applications and suggestions by other parties to the criminal proceedings as well as on matters to be decided by the court;
 - 102.6.13. exercising the rights of the person he represents, to object to unlawful acts by the opposite party to the criminal proceedings;

102.6.14. with the consent of the person he represents, to invite another representative and confer power of attorney on him;

102.6.15. to request compensation for any damage caused as a result of unlawful acts by the prosecuting authority;

102.6.16. to be informed by the prosecuting authority about any decision which affects the legal interests of the person he represents, and on request, to receive copies of those decisions;

102.6.17. to exercise the other rights provided for in this Code.

102.7. The representative of a victim, civil party or defendant to a civil claim shall not have the right to take any action against the legal interests of the person he represents.

102.8. In the circumstances covered by the power of attorney given to him, the representative of a victim, civil party or defendant to a civil claim or the head of the appropriate legal entity representing a civil party or defendant to a civil claim shall be entitled to take the following steps in accordance with his powers and with this Code:

102.8.1. to withdraw a complaint concerning the commission of a criminal act against the person he represents;

102.8.2. to be reconciled with the suspect or the accused;

102.8.3. to request that the person whose representative he is be recognised as a victim bringing a private prosecution;

102.8.4. to withdraw a civil claim filed by the person he represents;

102.8.5. to accept a civil claim against the person he represents;

102.8.6. to receive property awarded to the person he represents by a court decision.

102.9. The representative of a victim, civil party or defendant to a civil claim shall perform the following duties in accordance with this Code:

102.9.1. to comply with the instructions of the person he represents;

102.9.2. to present the prosecuting authority with documentation confirming his authority to represent the person;

102.9.3. to attend as required by the prosecuting authority in order to defend the legal interests of the person he represents;

102.9.4. at the request of the prosecuting authority, to submit items, documents and samples for comparative examination;

102.9.5. to obey the instructions of the preliminary investigator, investigator, prosecutor or court president;

102.9.6. not to leave the courtroom without the permission of the court president before a break is announced;

102.9.7. to comply with the rules of court;

102.9.8. not to divulge information about circumstances relating to the inviolability of private and family life or state, professional, commercial and other secrets protected by law;

102.9.9. to perform the other duties provided for in this Code.

Article 103. The representative of the victim bringing a private prosecution

103.1. During a criminal prosecution the representative of a victim bringing a private prosecution shall exercise the rights of the person represented, excluding inalienable personal rights;

103.2. The representative of the victim bringing a private prosecution shall participate in a criminal prosecution in accordance with the provisions of Article 102 of this Code governing the representative of the victim and the specific provisions of this article.

103.3. At the request of a victim bringing a private prosecution in criminal proceedings, the court shall appoint a lawyer as his representative.

103.4. The representative of the victim bringing a private prosecution may participate in the court hearing of the criminal case on behalf of the person he represents.

103.5. The representative of the victim bringing a private prosecution shall exercise the following rights in accordance with this Code:

103.5.1. to undertake the preparation of material for the criminal prosecution;

103.5.2. with the consent of the person he represents, to withdraw the charge at any stage of the criminal proceedings;

103.5.3. to continue the prosecution of the accused if the public prosecutor decides against a criminal prosecution;

103.5.4. to make an introductory statement, speak and reply at hearings of first instance and appeal courts, and to speak on the matter concerned before the Supreme Court on behalf of the person he represents;

103.5.5. to exercise the other rights provided for in this Code.

103.6. The representative of the victim bringing a private prosecution shall be entitled to be reimbursed by the person he represents for the costs incurred during the criminal proceedings, and where legal aid is provided free of charge to the victim bringing a private prosecution, in the circumstances provided for in Article 194.1 of this Code, to be reimbursed under the state budget of the Azerbaijan Republic.

103.7. The representative of the victim bringing a private prosecution shall perform the duties provided for in Article 102.9 of this Code.

Article 104. The legal representative of a witness

104.1. If a witness is under the age of 14, lacks legal capacity or is older but under full age, and does not have a legal representative, the prosecuting authority shall appoint the guardianship institution as his legal representative.

104.2. When taking part in investigative and other procedures, the legal representative of the witness shall exercise the following rights in accordance with this Code:

104.2.1. to know that the person he represents has been summoned to the prosecuting authority, and to participate in investigative and other procedures;

104.2.2. with the permission of the prosecuting authority, to give advice, make remarks and address questions to the person he represents;

104.2.3. to submit applications;

104.2.4. to object to the acts of the prosecuting authority and require such objections to be noted in the record of the investigative or other procedure;

104.2.5. during the pre-trial proceedings, to acquaint himself with the records of investigative and other procedures in which he has taken part jointly with the person he represents; to make observations on the accuracy and completeness of the written record; while participating in investigative or other procedures or in court hearings, to require the inclusion of the necessary circumstances in the appropriate record; to acquaint himself with the record of the court hearing and make observations on it;

104.2.6. to invite a lawyer to represent the person he represents;

104.2.7. to exercise the other rights provided for in this Code.

104.8. The legal representative of the witness shall perform the duties prescribed by Article 101.9 of this Code.

Article 105. The representative of a witness

105.1. During the investigative and other procedures the representative (lawyer or other person) who has been invited by a witness to accompany him to the office of the prosecuting authority and has attended these procedures from the outset shall, after presenting the documents confirming his authority, have the following rights:

105.1.1. to know in respect of which criminal case or other prosecution material the person he represents is summoned;

105.1.2. to participate in investigative and other procedures involving the participation of the person he represents;

105.1.3. with the consent of the person he represents, to object to the interpreter participating in his interrogation;

105.1.4. to make requests;

105.1.5. to explain legal matters to the person he represents.

105.2. The representative of the witness shall perform the duties provided for in Article 102.9 of this Code.

Article 106. The legal heir of the victim

106.1. If the victim dies as a result of the incident, a close relative of the victim who expresses the wish to exercise the rights and fulfil the duties of the deceased person during the criminal proceedings shall be considered as his legal heir.

106.2. A close relative who has caused the victim non-material, physical or material damage through a criminal act may not be considered the legal heir of this victim.

106.3. A decision on whether to recognise the close relative of the victim as his legal heir shall be made by the prosecuting authority at the relative's request. If there is a dispute on the subject among several relatives who make the appropriate requests, the matter shall be decided by the court. If at the time of the request there are insufficient grounds for a person to be recognised as the legal heir of the victim, the appropriate decision shall be made as soon as these grounds have been established.

106.4. If, after recognition of a person as the legal heir of the victim, it is determined that there are no grounds for him to remain in this position, the prosecuting authority shall give a reasoned decision ending this person's participation in the criminal proceedings as the legal heir of the victim. The legal heir of the victim may at any stage of the proceedings waive the powers in question.

106.5. The legal heir of the victim shall participate in the criminal proceedings instead of the victim. At this time, except for the victim's right to testify and inalienable personal rights, he shall exercise the other rights and fulfil the other duties of the victim. The legal heir of the victim may, on the same grounds as the victim, exercise the rights and fulfil the duties of a victim bringing a private prosecution.

106.6. The legal heir of the victim shall not have the following rights:

106.6.1. to be reconciled with the suspect or the accused;

106.6.2. to withdraw the criminal prosecution in his capacity as victim bringing a private prosecution;

106.6.3. to withdraw a complaint lodged by the victim.

106.7. The legal heir of the victim may be questioned as a witness.

106.8. The legal heir of the victim shall exercise the other rights and fulfil the other duties provided for in this Code.

Chapter XII

OBJECTIONS DURING CRIMINAL PROCEEDINGS

Article 107. General provisions on objections and requests to withdraw

107.1. Objections to the participation of certain persons in criminal proceedings and requests to withdraw shall be made in written, reasoned form.

107.2. If the circumstances provided for in of Articles 109, 110 and 112-118 of this Code preclude the participation in the criminal proceedings of the judge, juror, prosecutor, investigator, preliminary investigator, defence counsel, victim (victim bringing a private prosecution), civil party, defendant to the civil claim, representative of the witness, circumstantial witness, court clerk, interpreter, specialist or expert, they shall request to withdraw.

107.3. Objections may be raised in the following manner:

107.3.1. at any stage in the criminal proceedings any party thereto may object to the prosecutor, investigator, preliminary investigator, court clerk, interpreter, specialist or expert;

107.3.2. at any stage in the criminal proceedings the suspect or accused, prosecutor, victim bringing a private prosecution, victim, civil party, defendant to the civil claim, their legal representatives or their representatives may object to defence counsel or to the representatives of the victim, victim bringing a private prosecution, civil party, defendant to the civil claim or witness;

107.3.3. objections may be made to the judge or a juror by any party to the criminal proceedings before the start of the court's examination of the case; similarly they may be made after the start of the examination only if the objecting party to the criminal proceedings can prove that he knew about the circumstances precluding the person's participation in the proceedings before he raised the objection;

107.3.4. objections may be made to a circumstantial witness before the start of the appropriate investigative procedure, by any party to the criminal proceedings who has the right to participate in that investigative procedure.

107.4. If objections to the judge (the court) or a juror are raised for the purpose of delaying the court proceedings, or if the reasons for the objection are fabricated (do not correspond to the facts), the person who raised the objection shall be liable to a fine equivalent to two hundred times the minimum wage, imposed by decision of the court;

107.5. The prosecuting authority, in the exercise of its powers, shall be entitled to resolve objections and requests to withdraw in the course of the criminal proceedings and, if it discovers grounds for the exclusion of a person from the proceedings, to remove him from the proceedings on its own initiative.

107.6. Relatives and persons with other dependent relationships may not be included among the members of the court.

107.7. Any objection to the person who has authority to rule on objections to other persons shall be resolved first. If there is an objection to the judge or a juror at the same time as an objection to another party to the criminal proceedings or to the court clerk, interpreter, expert or specialist, the objection to the judge or juror shall be resolved first.

107.8. If the participation of several persons in the criminal proceedings is simultaneously precluded because of kinship or another dependent relationship, the persons designated last as judge, juror or party to the criminal proceedings shall be removed from the proceedings first.

107.9. If the members of the court include persons connected through kinship or another dependent relationship, the court president shall decide whom to remove from the criminal proceedings and in this case the juror shall be removed before the judge.

Article 108. Exemption from participation in criminal proceedings

108.0. In the absence of circumstances precluding the participation of the court clerk, interpreter, specialist or expert in the criminal proceedings, the court may, at their request, exempt them from participation before the start of the court's examination of the case in the following circumstances:

108.0.1. if there are good reasons which prevent them from performing their duty;

108.0.2. in other cases provided for in this Code.

Article 109. Objections to a judge

109.1. An objection to a judge may be considered justified and be granted unconditionally if there is at least one of the following grounds for exclusion of the person as a judge:

109.1.1. if the person was not appointed judge in accordance with the provisions of legislation of the Azerbaijan Republic;

109.1.2. if the judge has not the necessary authority to hear the criminal case or other prosecution matter in accordance with the legislation of the Azerbaijan Republic;

109.1.3. if the judge is the victim, civil party, defendant to the civil claim or their representative or legal representative in the same criminal case or another prosecution matter relating to it;

109.1.4. if the judge is questioned or may be questioned as a witness in the same criminal case or in another prosecution matter relating to it;

109.1.5. if the judge has participated previously as circumstantial witness, court clerk, interpreter, specialist or expert in the same criminal case or in another prosecution matter relating to it;

109.1.6. if the judge has participated as a judge in hearing the same criminal case or another prosecution matter in a court of first instance or appeal or before the Supreme Court, or on the basis of newly discovered facts (the judge's examination of the file at the pre-trial stage by way of judicial supervision, or the initial hearing of the case, shall not preclude his subsequently examining the case as a member of the court of first instance or appeal or the Supreme Court);

109.1.7. if the judge has any kinship or other dependent relationship with any party to the criminal proceedings (prosecution or defence) or with the representative or legal representative of such a party;

109.1.8. if there are grounds for believing that the judge has a direct or indirect interest in the prosecution, as well as in other circumstances when there is a doubt as to his impartiality.

109.2. In any of the cases covered by Article 109.1 of this Code, the judge shall request to withdraw.

109.3. Objections shall be resolved as follows:

109.3.1. if the criminal case is heard at first instance with the participation of a jury or by the judge alone, or if another prosecution matter is heard by the judge alone, the judge's request to withdraw or an objection to him shall be resolved by the court president;

109.3.2. if the criminal case or other prosecution matter is heard at first instance or on appeal, or before the Supreme Court, by a bench of several judges, the judge's request to withdraw or an objection to him shall be resolved by the bench without his participation;

109.3.3. at first instance, if two judges or the whole court request to withdraw or there are objections to them, or if the president solely responsible for hearing the case or other prosecution matter requests to withdraw or there is an objection to him, the objection shall be resolved by the appeal court judge;

109.3.4. if two court or Supreme Court judges, or the whole court, request to withdraw or if an objection is made to them, the matter shall be resolved by the president of the appeal court or of the Supreme Court, as the case may be.

109.4. When a judge's request to withdraw or an objection to him under Article 109.3. of this Code is examined, the parties to the criminal proceedings and the judge shall be consulted and the appropriate decision made. No appeal lies against this decision. If the number of votes for and against on the bench of judges is equal, the judge shall be removed from the criminal proceedings.

109.5. When a request to withdraw or an objection is granted in a court of first instance or appeal or before the Supreme Court, the case shall be examined by other judges at this court. If this is not possible at first instance for objective reasons, the case file or other prosecution material shall be transferred by the court of appeal for examination at another court of first instance.

Article 110. Objections to a juror

110.1. In any of the circumstances covered by Article 109.1 of this Code, or if the person is not one who may be included in the list of jurors on grounds of law, or if he is dependent on the judge or the parties to the criminal proceedings in the context of jury service, an objection to a juror shall be granted unconditionally.

110.2. In connection with the established number of jurors, the prosecution or the defence may object to any juror in accordance with Article 364 of this Code, without giving reasons.

110.3. An objection to a juror shall be resolved solely by the court president.

Article 111. The release of a juror from performance of his duties

111.1. The court president may release a juror from performance of his duties in the following cases:

111.1.1. if he is accused or suspected of committing an offence;

111.1.2. if he is deaf, blind or has other physical or mental disabilities, if he does not know the language used in court or if, as a result of not knowing it properly, he cannot comprehend the trial proceedings completely, acquaint himself with the documents or express his opinions;

111.1.3. if a request to strike him off the list is granted before the selection of jurors for the specific case is completed.

111.2. The following jurors may be released from performance of their duties on the basis of their own written applications:

111.2.1. those who are over the age of 65;

111.2.2. women who have a child under the age of 3;

111.2.3. those whose participation in a trial is considered impossible because of their religious or other beliefs;

111.2.4. those whose release from their professional duties may cause significant damage to public and state interests;

111.2.5. those who have other good reasons for not participating in the court proceedings.

Article 112. Objections to a prosecutor

112.1. Objections to a prosecutor in any of the circumstances covered by Article 109.1 of this Code shall be considered justified and be granted unconditionally.

112.2. The participation of a prosecutor in the investigation of a criminal case or his taking charge of the procedural aspects of the investigation shall preclude his acting as public prosecutor in court.

112.3. In any of the circumstances covered by Article 109.1 of this Code, the prosecutor shall request to withdraw.

112.4. Objections to a prosecutor shall be resolved as follows:

112.4.1. in the course of pre-trial criminal proceedings, by the senior prosecutor;

112.4.2. when the case is heard by the jury or by the judge on his own, or another prosecution matter is heard by the judge on his own, objections shall be resolved by the president;

112.4.3. when the case is heard in court by a bench of several judges, objections shall be resolved by the bench.

Article 113. Objections to an investigator or preliminary investigator

113.1. Objections to an investigator or preliminary investigator in any of the circumstances covered by Article 109.1 of this Code shall be considered justified and be granted unconditionally.

113.2. The participation of an investigator or preliminary investigator in the investigation of a criminal case shall not preclude his further participation in the investigation of the same criminal case, except in case of serious violations of the law.

113.3. In any of the circumstances covered by Article 109.1 of this Code, the investigator or preliminary investigator shall request to withdraw.

113.4. Objections to an investigator or preliminary investigator shall be resolved by the prosecutor in charge of the procedural aspects of the investigation.

Article 114. Objections to defence counsel and representatives

114.1. Objections to defence counsel or to the representative of the victim (victim bringing a private prosecution), civil party, defendant to the civil claim or witness, in any of the following cases which preclude his further participation in the criminal proceedings, shall be considered justified and be granted unconditionally:

114.1.1. in the case of kinship with, or personal or professional dependence on, a judge participating or who has participated in the criminal proceedings, a juror, a prosecutor, an investigator or preliminary investigator or the court clerk;

114.1.2. if he takes part in the prosecution as judge, juror, prosecutor, investigator, preliminary investigator, circumstantial witness, court clerk, interpreter, specialist, expert or witness;

114.1.3. if he is the judge, prosecutor, investigator or preliminary investigator (except in cases where he is a legal representative of the accused, the suspect or a party to the criminal proceedings who lacks legal capacity, or where he takes part as representative of the body for which he works, which has been recognised as civil party or defendant to the civil claim);

114.1.4. if he provides legal assistance to a person whose legal interests conflict with those of the accused or suspect whose legal interests he defends or those of the civil party or defendant to the civil claim whom he represents;

114.1.5. if he does not have the right to be a defence counsel or representative under the terms of the law or a court decision.

114.2. In any of the circumstances described in Article 114.1 of this Code, defence counsel and the representative of the victim (victim bringing a private prosecution), civil party, defendant to the civil claim or witness shall request to withdraw.

114.3. Objections to defence counsel and to the representative of the victim (victim bringing a private prosecution), civil party, defendant to the civil claim or witness shall be resolved by the prosecuting authority.

114.4. If there is a doubt or other concern about the competence and honesty of the defence counsel or of the person appointed as a representative, the defence counsel or representative shall be removed from the criminal proceedings in response to an application by the defendant or the person represented.

Article 115. Objections to a circumstantial witness

115.1. In any of the circumstances described in Article 109.1.3 - 109.1.8 of this Code, or if the person concerned does not meet the requirements of Article 94.1 of this Code, he may not participate in the criminal proceedings as a circumstantial witness.

115.2. Other than when the participation of the circumstantial witness is constant, his previous participation in an investigative procedure shall not preclude his renewed participation in another investigative procedure relating to the same prosecution.

115.3. Objections to circumstantial witnesses shall be resolved by the person conducting the investigation.

115.4. The participation of any person in an investigative procedure as a circumstantial witness other than in pursuance of Article 115.1 and 115.2 of this Code may render the procedure invalid.

Article 116. Objections to a court clerk

116.1. In any of the circumstances described in Article 109.1.3-109.1.8 of this Code, and if the court clerk has no right to be a court clerk under the terms of the law or a court decision, he may not participate in the criminal proceedings as court clerk.

116.2. The person's previous participation in a court hearing as court clerk shall not preclude his participation in further hearings in this position.

116.3. Objections to the court clerk shall be resolved as follows:

116.3.1. when the case or other prosecution matter is heard by the judge alone or with the participation of a jury, by the court president;

116.3.2. when the case is heard by the court as a bench, by the court.

Article 117. Objections to an interpreter or specialist

117.1. In any of the circumstances described in Article 109.1.3-109.1.8. of this Code, or if the interpreter or specialist does not have the right to be an interpreter or specialist under the terms of the law or a court decision, he may not participate in the criminal proceedings.

117.2. The previous participation of the person in the criminal proceedings as interpreter or specialist shall not preclude his subsequent participation in the criminal proceedings in that capacity.

117.3. Objections to an interpreter or specialist shall be resolved as follows:

117.3.1. when the criminal case is heard by the court as a bench, by the court;

117.3.2. during the preliminary investigation or the investigation, by the preliminary investigator, investigator or prosecutor as the case may be;

117.3.3. when the case or other matter is heard by the judge alone or with the participation of a jury, by the court president.

Article 118. Objections to experts

118.1. An expert may not participate in criminal proceedings in the following circumstances:

118.1.1 in any of the circumstances described in Article 109.1.3-109.1.8 of this Code;

118.1.2. if, under the law or a court decision, he has no right to act as an expert;

118.1.3. if he conducted inspections or other supervisory activities as a result of which the criminal proceedings were started.

118.2. Except where a further expert report is required because of a doubt about the accuracy of the previous one, a person's participation as an expert in a trial shall not preclude his further participation in the proceedings.

118.3. Objections to experts shall be resolved as follows:

118.3.1. during the investigation or preliminary investigation, by the preliminary investigator, investigator or prosecutor as the case may be;

118.3.2. when the case or other matter is heard by the judge alone or with the participation of a jury, by the court president;

118.3.3. when the criminal case is heard by the court as a bench of several judges, by the court.

Chapter XIII

SECURITY OF THE RIGHTS AND LEGAL INTERESTS OF PARTIES TO CRIMINAL PROCEEDINGS

Article 119. The obligation to examine applications for recognition of a person as a party to criminal proceedings

119.1. If there are sufficient grounds under this Code, any person shall have a right to apply to the prosecuting authority for recognition as a victim, victim bringing a private prosecution, civil party or defendant to a civil claim, or as the legal representative or representative of those persons or of a witness.

119.2. The prosecuting authority shall examine any application for recognition as a victim, victim bringing a private prosecution, civil party or defendant to a civil claim, or as the legal representative or representative of those persons or of a witness, no later than 3 (three) days after its receipt, give a decision according to the result and send a copy of this decision to the applicant.

119.3. The applicant shall have the following rights:

119.3.1. after receipt of the copy of the decision of the prosecuting authority refusing recognition as a party to the criminal proceedings, he shall have 5 (five) days in which to appeal to a court against the decision;

119.3.2. if the decision on the application for recognition as a party to the criminal proceedings is not made within 1 (one) month of the date of the application, he may complain to a court about the prosecuting authority's failure to reply or apply to the court for recognition as a party to the criminal proceedings.

119.4. If a close relative of a person who died as a result of the incident wishes to be his legal heir, he may request recognition as a victim. His request shall be examined by the prosecuting authority in pursuance of Article 119.2 of this Code.

Article 120. Explanation of their rights and duties, and of the scope for exercising these, to the parties to criminal proceedings

120.1. Any party to criminal proceedings shall be entitled to know his rights and duties, to know the legal consequences of his chosen position and to receive explanations about the contents of the documents presented to him, so that he may acquaint himself with the nature of the procedures in which he is to participate.

120.2. The prosecuting authority shall:

120.2.1. explain to every party to the criminal proceedings his rights and duties and make it possible for him to fulfil them (giving him the check list of his rights and duties as provided for in this Code shall not absolve the prosecuting authority from giving appropriate explanations at the person's request);

120.2.2. provide the surnames of persons to whom objections may be raised, as well as any other information on those persons needed by the parties to criminal proceedings.

120.3. The rights and duties of a person with the status of party to the criminal proceedings shall be explained before the start of the investigative or other procedures involving his participation and before the announcement of his position as a party to the criminal proceedings.

120.4. Whether or not the rights and duties of a party to criminal proceedings present at a trial were explained during the pre-trial proceedings on the criminal case, the court shall explain his rights and duties to him.

120.5. The prosecuting authority and the person conducting the investigative or other procedure shall explain their rights and duties to the circumstantial witness, interpreter, specialist and expert before the start of any investigative or other procedure involving their participation. An expert's rights and duties may also be explained at the request of the prosecuting authority by the head of the office that appointed the expert. A witness' rights and duties shall be explained firstly by the prosecuting authority before he is questioned and again at the court hearing.

120.6. The parties to the criminal proceedings as well as other participants in the criminal proceedings shall have their rights and duties explained as appropriate to their level of intelligence, life experience, education and other circumstances.

The prosecuting authority shall explain their rights and duties again whenever any participant so requests.

120.7. It shall not be compulsory to explain their rights and duties to the prosecutor, defence counsel or persons representing the prosecution or the defence who have degrees in law, or to a court clerk with appropriate work experience.

Article 121. The obligation to consider applications and requests

121.1. The prosecuting authority shall:

121.1.1. include applications made by the parties to the criminal proceedings during an investigative or other procedure, as well as requests by other participants in the criminal proceedings, in the record of those procedures (or the court hearing);

121.1.2. add the written applications and requests of the parties and of other participants in the criminal proceedings to the prosecution file;

121.1.3. unless otherwise ordered by this Code, examine applications and requests as soon as they are made and take an appropriate decision on their outcome (the determination of an application may be delayed until circumstances are established which make it imperative for the prosecuting authority to decide on it; in the circumstances provided for in this Code, failure to submit an application in time shall result in its not being examined);

121.1. 4. send a copy of the decision on the application or the request to the applicant immediately.

121.2. Reasons shall be given for the decision taken on an application or request, together with an assessment of the applicant's arguments. Applications and requests for any matters connected with the prosecution to be examined thoroughly, fully and objectively under the required legal procedure, and for the violated rights and legal interests of the parties to the criminal proceedings and of other participants in the proceedings to be restored, may not be rejected.

121.3. The rejection of an application or request shall not preclude its renewed presentation at later stages of the criminal proceedings or to another prosecuting authority. The application or request may be renewed in other circumstances if new evidence is adduced or if it is confirmed during the criminal proceedings that it must be granted.

Article 122. The right to complain about procedural acts and decisions

122.1. The parties to criminal proceedings and, in accordance with the provisions of this Code, other participants in criminal proceedings, may complain about procedural acts or decisions of the prosecuting authority.

122.2. Complaints about procedural acts and decisions of the prosecuting authority shall be made:

122.2.1. if they relate to an act or decision of the investigator or preliminary investigator, to the prosecutor in charge of the procedural aspects of the investigation;

122.2.2. if they relate to an act or decision of the prosecutor in charge of the procedural aspects of the investigation, to a senior prosecutor;

122.2.3. if they relate to an act or decision of the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation under Article 449.3 of this Code, to the court exercising supervisory responsibilities;

122.2.4. if they relate to court acts or decisions in accordance with this Code, to the higher court.

122.3. Complaints about acts and decisions of the prosecuting authority may be in writing, or, if this Code does not specify the written form, they may be made orally (the prosecuting authority shall in this case note the oral complaint in the record of the procedure or in a separate record).

122.4. Complaints shall be lodged either directly or through the prosecuting authority whose act or decision they concern. When the preliminary investigator, investigator, prosecutor or court receives a complaint regarding their acts or decisions or the acts or decisions of others, they shall send this directly to the appropriate place for examination within 24 hours, unless another time limit is set by this Code.

122.5. A complaint by a party to the criminal proceedings shall be considered without delay, and in any case no later than 3 (three) days after receipt by the prosecuting authority. Complaints by other participants in the criminal proceedings shall be examined no later than 15 (fifteen) days after receipt by the prosecuting authority. This Code may also provide for other time limits for examination of complaints.

122.6. Complaints may remain unexamined or may be returned if they are not signed by the party to the criminal proceedings or other participant in the proceedings, or if the act or decision complained of is not specified.

122.7. The following persons shall be entitled to withdraw complaints against acts or decisions of the prosecuting authority or of a person carrying out investigative or other procedures:

122.7.1. the person who made the complaint (complaints made in the legal interests of the suspect or accused may be withdrawn only with his consent);

122.7.2. the suspect or accused may withdraw a complaint made by defence counsel;

122.7.3. the civil party, victim (victim bringing a private prosecution) or defendant to a civil claim may withdraw a complaint by his representative (except one lodged by his legal representative).

122.8. Except where otherwise provided by this Code, if the time limit for withdrawal of a complaint has not expired, it is possible to submit it again.

122.9. If a complaint is made by the suspect or accused or by another person in the legal interests of the suspect or accused, the prosecuting authority shall have no right to use it against this person.

122.10. The prosecuting authority shall give a reasoned decision based on the grounds for the complaint and inform the complainant in writing.

122.11. When the legal remedies of parties to criminal proceedings or other participants in criminal proceedings, as provided for in this Code and other laws of the Azerbaijan Republic, are exhausted, those persons shall have the right to apply to international courts for the protection of human rights and fundamental freedoms on the basis of the international treaties to which the Azerbaijan Republic is a party.

Article 123. The obligation to take government measures to protect victims, witnesses, accused persons and other participants in criminal proceedings

123.1. When the prosecuting authority detects circumstances in which the victim, witness, accused or other participant in criminal proceedings requires or may require protection from criminal activity, it shall take appropriate security measures, at the person's request or on its own initiative, to ensure his protection by the state.

123.2. Security measures for the protection of those participating in criminal proceedings shall be carried out in accordance with the legislation of the Azerbaijan Republic.

123.3. Applications and requests by participants in criminal proceedings regarding measures for their security shall be examined by the prosecuting authority without delay and not later than 72 hours after receipt. The result of the examination of the application or request shall be made known to the applicant immediately, and a copy of the relevant decision sent to him by the prosecuting authority.

123.4. The applicant shall have the right to complain to a court within 5 (five) days of receiving a copy of the decision rejecting his application or request for security measures for his protection, or, if he does not receive a copy of the relevant decision of the prosecuting authority, to apply to the court with a view to security measures within 7 (seven) days of submitting his application or request.

123.5. If, after the rejection of his application or request for security measures for his protection, the person participating in criminal proceedings is threatened or attacked again, or if new circumstances arise which were not reflected in the application or request, he may again submit the application or request for the above-mentioned measures.

SECTION THREE

EVIDENCE AND PROOF

Chapter XIV

EVIDENCE

Article 124. Concept and types of evidence

124.1. Reliable evidence (information, documents, other items) obtained by the court or the parties to criminal proceedings shall be considered as prosecution evidence. Such evidence:

124.1.1. shall be obtained in accordance with the requirements of the Code of Criminal Procedure, without restriction of constitutional human and civil rights and liberties or with restrictions on the grounds of a court decision (on the basis of the investigator's decision in the urgent cases described in this Code);

124.1.2. shall be produced in order to show whether or not the act was a criminal one, whether or not the act committed had the ingredients of an offence, whether or not the act was committed by the accused, whether or not he is guilty, and other circumstances essential to determining the charge correctly.

124.2. The following shall be accepted as evidence in criminal proceedings:

124.2.1. statements by the suspect, the accused, the victim and witnesses;

124.2.2. the expert's opinion;

124.2.3. material evidence;

124.2.4. records of investigative and court procedures;

124.2.5. other documents.

Article 125. The availability of evidence

125.1. If there is no doubt as to the accuracy and source of the information, documents and other items and as to the circumstances in which they were obtained, they may be accepted as evidence.

125.2. Information, documents and other items shall not be accepted as evidence in a criminal case if they are obtained in the following circumstances:

125.2.1. if the accuracy of the evidence is or may be affected by the fact that the parties to the criminal proceedings are deprived of their lawful rights, or those rights are restricted, through violation of their constitutional human and civil rights and liberties or other requirements of this Code;

125.2.2. through the use of violence, threats, deceit, torture or other cruel, inhuman or degrading acts;

125.2.3. through violation of the defence rights of the suspect or accused, or the rights of a person who does not know the language used in the criminal proceedings;

125.2.4. where the rights and duties of a party to the criminal proceedings are not explained, or not explained fully and accurately and, as a result, he exercises them wrongly;

125.2.5. where the criminal prosecution and investigative or other procedures are conducted by a person who does not have the right to do so;

125.2.6. where a person whose participation should be objected to, and who knows or should know the reasons precluding his participation, takes part in the criminal proceedings;

125.2.7. where the rules governing investigative or other procedures are seriously violated;

125.2.8. where the document or other item is taken from a person unable to recognise it or who cannot confirm its accuracy, its source and the circumstances of its acquisition;

125.2.9. where evidence is taken from a person unknown at the trial or from an unknown source;

125.2.10. where evidence is taken through means conflicting with modern scientific views.

125.3. Information, documents and other items taken in the circumstances described in Article 125.2. of this Code shall be regarded as invalid and may not be used to prove any circumstance with a view to determining a charge correctly.

125.4. Material obtained through the violations described in Article 125.2. of this Code may be used as evidence of the violations concerned and the guilt of those committing them.

125.5. After a violation of the requirements of the Code of Criminal Procedure by the prosecution, the material whose evidential value is deemed to have been lost may be accepted as evidence at the request of the defence. In this case, such evidence may not concern other participants in the proceedings, but only the relevant suspect or accused. Acceptance of this material as evidence shall not mean that its accuracy cannot be disputed.

125.6. Any complaint lodged or decision taken on any matter significant to the prosecution concerned shall only confirm the fact that the complaint was lodged or the procedural decision was taken and shall not be accepted as evidence.

125.7. The prosecuting authority shall determine, either on its own initiative or further to an application by the parties to the criminal proceedings, whether information, documents and other items may not be used as evidence during the criminal prosecution, and whether they may be put to limited use.

125.8. If evidence is obtained in accordance with the requirements of this Code, it shall be for the objecting party to demonstrate grounds for its refusal.

125.9. When a criminal case is examined by the jury, the court president shall produce the material which cannot be accepted as evidence, explain its lack of legal justification to the jurors and prevent an erroneous point of view from being adopted by the parties to the criminal proceedings.

Article 126. Statements by the suspect, accused, victim and witnesses

126.1. Oral and written information received by the prosecuting authority from the suspect, accused, victim or witnesses in pursuance of this Code shall be considered as evidence.

126.2. Only statements based on the information or conclusions of a person directly comprehending the act and its causes, character, mechanism or development may be considered as evidence.

126.3. Information given to the prosecuting authority by the suspect, accused, victim or witnesses on the basis of hearsay may not be used as evidence. Only information derived from the words of a deceased person may exceptionally be accepted as evidence by court decision.

126.4. The value of evidence may not be assigned to statements given in the following situations:

126.4.1. when a person is agreed to be unable to comprehend or describe matters significant to the prosecution at the appropriate time;

126.4.2. when a person refuses to undergo an examination by experts of his ability to comprehend or describe matters significant to the prosecution.

126.5. Information from persons who may not be questioned as witnesses shall not be used as evidence.

126.6. The accused person's confession of guilt may be accepted as grounds for the charge against him only if confirmed by the contents of all the evidence on the case.

Article 127. The expert's opinion

127.1. The expert's opinion, expressed in written form and based on his specialised knowledge of scientific, technical, artistic or professional fields, shall consist of:

127.1.1. his findings on the questions put to him by the prosecuting authority or the parties to the criminal proceedings, as well as on the investigation of other matters relating to his competence which emerge during the examination of the case file;

127.1.2. a description of the investigation carried out by the expert to substantiate those findings.

127.2. The expert's investigative techniques, the grounds for his answers to the questions asked, as well as other significant prosecution matters determined by the expert on his own initiative, shall be reflected in the expert's opinion.

127.3. The expert's opinion shall not be binding on the preliminary investigator, investigator, prosecutor or court; it shall be checked by the prosecuting authority in the same way as any other evidence and evaluated in the light of all the relevant facts. If the opinion is not approved, a reasoned decision to that effect shall be given.

Article 128. Material evidence

128.1. Any item that can help to determine circumstances of importance to the prosecution because of its characteristics, features, origin, place and time of discovery or the imprints it bears may be considered to be material evidence.

128.2. An item shall be considered as material evidence if so decided by the prosecuting authority.

128.3. The significance of an item as material evidence shall be accepted by the court if:

128.3.1. immediately after its acquisition, the item is described in detail and sealed, and other similar acts are carried out making it impossible significantly to alter the imprints it bears and its features or characteristics;

128.3.2. the suspect, accused, victim or witness recognises it immediately before it is examined in court.

Article 129. The preservation of material evidence and other items

129.1. Material evidence shall where possible be packed and kept in sealed form in the case file; if it is of a large size, it shall be given for safekeeping to an organisation, institution or appropriate person, subject to their consent.

129.2. During the prosecution, as soon as the following items have been examined, and no later than 7 (seven) days after they were obtained, the prosecuting authority shall deposit in the state bank:

129.2.1. precious metals and stones, pearls and jewellery made from them;

129.2.2. cash in national and foreign currency, cheques, securities, bonds and lottery tickets.

129.3. Cash in national or foreign currency acquired during the investigation as well as other securities shall be kept with the prosecution file if it has or they have individual characteristics of significance to the prosecution.

129.4. The material evidence and other items acquired during the case shall be kept by the prosecuting authority until their allocation is settled by final decision of the court and by the decision of the prosecuting authority to discontinue the prosecution. In the circumstances provided for in this Code, a decision on the material evidence may also be taken before the conclusion of the prosecution.

129.5. When a legal dispute concerning an item added to the prosecution file as material evidence has to be heard by a civil court, this item shall be kept until the decision on the civil case becomes final.

Article 130. Safekeeping of items during a criminal prosecution

130.1. When material evidence and other items are kept, and if they are examined by an expert or sent to another investigating authority, prosecutor or court concerned with the criminal case, the appropriate measures shall be taken to prevent these items from becoming lost, damaged, spoilt, disarranged or coming into contact with each other.

130.2. When a prosecution file is sent anywhere, all material evidence and other items sent with the file shall be recorded in the letter which accompanies the file, as well as on a separate list or in a note attached to the indictment. The places where the items are kept, if they are not sent with the prosecution file, shall be recorded in the above-mentioned documents.

130.3. Material evidence and other items sent by post or by hand shall be examined by the expert, preliminary investigator, investigator, prosecutor or judge and compared with the letter accompanying them, the list, the note attached to the indictment, the records describing their characteristics and acquisition and other prosecution material. A record shall be drawn up of the examination process and of its results.

Article 131. Decisions about material evidence before the end of the prosecution

131.1. Before the prosecution ends, the prosecuting authority shall return the following material evidence either to the owner or to the lawful holder:

131.1.1. perishable items;

131.1.2. items which are in daily use at home;

131.1.3. domestic animals, birds and other animals which need daily care;

131.1.4. cars and other means of transport not retained to satisfy a civil claim or a property demand.

131.2. Where the owner or lawful holder of the items provided for in Article 131.1 of this Code is not known, or for some reason their return is impossible, these items shall be given to the appropriate organisations to be used, kept or cared for.

Article 132. Decisions about material evidence after the end of the prosecution

132.0. When the court gives a judgment or the prosecuting authority gives a decision to discontinue the prosecution, the following rules shall be observed in connection with the solution of matters relating to the material evidence:

132.0.1. the instruments used to commit the offence and belonging to the convicted person, as well as items which are prohibited from circulation, shall be confiscated and given to the appropriate organisations; if they are not of any value they shall be destroyed;

132.0.2. other items of no value shall be destroyed or, at the request of interested persons, may be given to them;

132.0.3. money and valuables removed from their owners as a result of the criminal act shall be returned to their holders, their owners or the legal heirs thereof;

132.0.4. money and valuables which were obtained as a result of the offence, or are the subject of the offence, shall contribute by decision of the court to compensation for the damage caused by the offence; if the victim is unknown, they shall become state property;

132.0.5. during the period for which the prosecution file is kept, documents that are material evidence shall be kept in the case file or shall be given to interested organisations and persons.

Article 133. Outcome of the spoiling, destruction or loss of items

133.1. The value of items spoiled, destroyed or lost during the expert's examination or other lawfully conducted investigative or procedural act shall be included in the court costs. If an item belongs to the convicted person or to the defendant to the civil claim, its value shall not be reimbursed. If an item belongs to another person, its value shall be reimbursed under the state budget of the Azerbaijan Republic by court decision, or may be recovered from the convicted person and the defendant to the civil claim.

133.2. When an acquittal is made by the court or when a prosecution is discontinued, the value of items spoiled, destroyed or lost during the expert's examination or other lawfully conducted investigative or procedural act shall be paid, irrespective of the procedural situation, to the holder or the legal owner under the state budget of the Azerbaijan Republic.

Article 134. Records of investigative procedures and court hearings

134.1. Records of investigative procedures and court hearings shall be documents drawn up in writing in accordance with this Code which confirm the prosecuting authority's direct understanding of matters significant to the prosecution.

134.2. The records of the following investigative procedures, drawn up in accordance with this Code, may be used as evidence by the prosecuting authority:

134.2.1. examination of places and objects;

134.2.2. body search;

- 134.2.3. identification of persons and objects;
 - 134.2.4. seizure of property;
 - 134.2.5. search operations;
 - 134.2.6. attachment of property;
 - 134.2.7. confiscation of mail, telegraphic and other messages;
 - 134.2.8. interception of telephone or other conversations and interception of information sent by other technological means of communication;
 - 134.2.9. acquisition of information concerning not only financial transactions, bank account statements and tax payments but also personal, family, state, commercial or professional secrets;
 - 134.2.10. exhumation;
 - 134.2.11. questioning, confrontation and verification of testimony at the scene;
 - 134.2.12. taking of samples for examination;
 - 134.2.13. investigative experiments.
- 134.3. Records of the receipt of a verbal application regarding the offence, of a voluntary confession of guilt, of detention and of the explanation of persons' rights and duties may be used as evidence confirming those facts.
- 134.4. The admissibility as evidence of records of investigative procedures which have not been registered or not been registered in time shall be decided by the court depending on the result of the investigation.
- 134.5. The incompleteness of the record of an investigative procedure may not be offset by the testimony of the preliminary investigator, investigator, prosecutor or circumstantial witness.

Article 135. Documents

- 135.1. Paper, electronic and other materials bearing information which may be of importance to the prosecution, in the form of letters, numbers, graphics or other signs, shall be considered as documents. A document setting out matters known to a person through his duties and his work, confirmed with his signature and drawn up in the form prescribed by legislation, shall be considered as an official document.
- 135.2. Documents which have the characteristics described in Article 128.1 of this Code may also be considered as material evidence.
- 135.3. Evidence in support of a charge shall be from the original documents or a true copy of the original. The use of copies of documents during criminal proceedings shall be permitted with the consent of the parties.

Article 136. Inclusion of documents in the prosecution file, their keeping in the file and their return

- 136.1. Documents shall be added to the prosecution file by the prosecuting authority and shall be kept in the case file for the whole period during which the file is kept.
- 136.2. When the lawful holder of the documents requires them for routine recording, accounting or other legal purposes, he shall be allowed to use them temporarily or to make copies thereof.
- 136.3. One year after the court judgment becomes final or after the prosecuting authority's decision to discontinue the prosecution becomes final, the originals of the documents which are in the prosecution file may be returned to their lawful holders at the latter's request. In this case, depending on where the prosecution file is kept, the investigator, prosecutor or court shall make copies of these documents, certify their validity and keep the copies in the file.

Article 137. The use as evidence of material obtained in the course of search operations

If material obtained as a result of a search operation is obtained in accordance with the law of the Azerbaijan Republic on search operations and is presented and verified in accordance with the requirements of this Code, it may be accepted as evidence for the prosecution.

Chapter XV

PROOF

Article 138. The concept of proof

138.1. Proof shall consist in the obtention, verification and assessment of evidence in order to establish facts of importance for the lawful, thorough and equitable determination of the criminal charge.

138.2. The prosecutor shall be responsible for proving the grounds for the criminal responsibility of the accused and whether or not he is guilty.

Article 139. Facts which need to be proven

139.0. During prosecution, the following may be determined only on the basis of evidence:

139.0.1. the facts and circumstances of the criminal act;

139.0.2. the connection of the suspect or accused with the criminal act;

139.0.3. the criminal ingredients of the act provided for in criminal law;

139.0.4. the guilt of the person in committing the act provided for in criminal law;

139.0.5. the circumstances which mitigate or aggravate the punishment for which criminal law provides;

139.0.6. if there is no other circumstance covered by this Code, the grounds for a request by a party to the criminal proceedings or another participant in the proceedings.

Article 140. Facts determined on the basis of particular evidence

140.0. In the course of criminal proceedings, the following facts may be determined only if the following evidence is obtained and investigated beforehand:

140.0.1. cause of death, degree and nature of an injury: the opinion of a medical expert;

140.0.2. whether the suspect or accused, when committing an offence which constitutes a public threat, is able or not, as a result of chronic mental illness, temporary mental disorder, debility or other mental disorder, to comprehend or control the factual nature of his act (act or failure to act) and the public threat it poses: the opinion of psychiatric experts;

140.0.3. whether a witness or the victim is unable, as a result of chronic mental illness, temporary mental disorder, debility or other mental disorder, to comprehend and describe facts which need to be established for the purposes of the criminal case: the opinion of psychiatric experts;

140.0.4. age, if the victim, suspect or accused does not have documents to prove his age: the opinion of medical and psychiatric experts;

140.0.5. previous conviction of the accused, and the sentence passed: a copy of the court judgment.

Article 141. Facts determined without evidence

141.1 Without reference to the prosecution file, the following facts shall be regarded as proven:

141.1.1. generally known facts;

141.1.2. the accuracy of the investigative methods generally accepted in modern science, technology, arts and other fields;

141.1.3. facts determined by a preliminary decision which is binding on the court.

141.2. The parties to criminal proceedings may come to an agreement, without investigation, about the existence of, or the value to be assigned to, any fact of significance to the prosecution. If, on the basis of the evidence in the prosecution file, the court accepts the existence of these facts and that the value assigned to them is not inconsistent with the law, this agreement may be considered as the basis for the judgment or other decision. In this case the facts determined without investigation of the evidence shall be considered as established only in relation to those who subscribe to the agreement and not to the other participants in the criminal proceedings.

141.3. The following facts shall be regarded as established without reference to the prosecution file:

141.3.1. persons' knowledge of the law;

141.3.2. persons' knowledge of their professional duties and staff rules;

141.3.3. lack of specialised training and education, if the person does not present documents certifying his specialised training and education or does not give the name of the institution or other organisation providing the specialised training and education.

Article 142. Preliminary rulings

142.1. During the prosecution a final decision of a criminal court shall be binding on the preliminary investigator, investigator, prosecutor and court in respect of established facts and their legal value.

142.2. During the prosecution a final court decision on a civil case shall be binding on the preliminary investigator, investigator, prosecutor and court only as regards the question of whether or not the incident or act took place, and shall not predetermine whether or not the accused is guilty.

Article 143. Collection of evidence

143.1. Evidence shall be collected during the investigation and court proceedings by questioning, confrontation, attachment of property, search operations, examination of places and objects, expert reports, presentation for identification and other procedures.

143.2. During the process of collecting evidence, the preliminary investigator, investigator, prosecutor or court shall have the right, at the request of parties to the criminal proceedings or on their own initiative, to request the presentation of documents and other items of significance to the prosecution by individuals, legal entities, officials and the authorities which carry out search operations, and to request checks and inspections by the authorised authorities and officials.

143.3. In accordance with this Code, defence counsel authorised to participate in criminal proceedings shall have the right, for the purpose of providing legal assistance, to present evidence and collect information, including the right to receive explanations from individuals and to request memoranda, references and other documents from various organisations and associations.

143.4. The suspect, accused, defence counsel, prosecutor, victim, civil party, defendant to the civil claim and their representatives, and individuals and legal entities, shall have the right to present objects and documents as well as oral and written information which may be regarded as evidence.

Article 144. Verification of evidence

Evidence collected for the purposes of prosecution shall be verified fully, thoroughly and objectively. As part of the verification process the items of evidence collected shall be analysed and compared with one another, new evidence shall be collected and the reliability of the source of the evidence obtained shall be established.

Article 145. Assessment of evidence

145.1. All evidence shall be assessed as to its relevance, credibility and reliability. The content of all evidence collected for the purposes of prosecution shall be assessed in terms of whether it is sufficient to substantiate the charge.

145.2. The preliminary investigator, investigator, prosecutor, judge and jury shall assess the evidence according to their personal conviction on the basis of a thorough, full and objective examination of its content, guided by the law and their conscience.

145.3. If suspicions which emerge during the process of proving the charge cannot be removed by other evidence, they shall be interpreted in favour of the suspect or accused.

Article 146. The sufficiency of evidence

146.1. The notion that sufficient evidence has been collected for the prosecution means that the amount of evidence on the facts to be determined is such as to allow a reliable and final conclusion to be reached on the case.

146.2. The sufficiency of evidence for the prosecution shall help to achieve the following:

146.2.1. the investigation and the court proceedings to be carried out purposefully;

146.2.2. the court's perspective on the prosecution to be determined in good time;

146.2.3. a correct and well founded decision to be taken on the prosecution.

146.3. The collection of comprehensive evidence shall not result in:

146.3.1. the collection of unnecessary material;

146.3.2. the prolongation (dilatory conduct) of the investigation or the court proceedings.

SECTION FOUR

COERCIVE PROCEDURAL MEASURES

Chapter XVI

DETENTION

Article 147. The use of detention during criminal proceedings

147.1. Detention during criminal proceedings may be applied only to the following:

147.1.1. a person suspected of committing an offence;

147.1.2. a person who is to be charged or an accused who has violated the conditions governing the restrictive measure applied to him;

147.1.3. a sentenced person, in order to settle the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release.

147.2. Detention shall be applied in the following circumstances:

147.2.1. if there is a suspicion that the person concerned committed an offence;

147.2.2. if there is an appropriate decision by the prosecuting authority about a person covered by Article 147.1.2;

147.2.3. if there is a court decision on the detention of a sentenced person pending settlement of the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release.

147.3. The illegal detention of a person shall entail liability under the legislation of the Azerbaijan Republic.

Article 148. Detention of persons suspected of committing an offence

148.1. A person suspected of committing an offence shall be detained if there is a direct suspicion that he committed the offence or other information giving grounds for suspicion that he committed the act provided for in criminal law.

148.2. If there is a direct suspicion that a person committed an offence, the preliminary investigator, another official of the preliminary investigating authority, the investigator or the prosecutor may detain him in the following cases:

148.2.1. if the person is caught in the act of committing an offence provided for in criminal law or immediately thereafter on the scene of the offence;

148.2.2. if the victim or other witnesses to the act themselves assert that the act provided for in criminal law was committed by this person;

148.2.3. if clear marks indicative of the commission of the criminal act are discovered on the person's body, on his clothes or on other items he uses, in his home or in his means of transport.

148.3. If there is other information giving grounds to suspect a person of committing an act provided for in criminal law, he may be detained by the preliminary investigator, another official of the investigating authority, the investigator or the prosecutor in the following cases:

148.3.1. if he tries to escape from the crime scene into hiding, or to hide from the prosecuting authority;

148.3.2. if he has no permanent home or lives in another area;

148.3.3. if his identity cannot be established.

148.4. In the circumstances provided for in Article 148.1 and 148.2 of this Code, the person may be detained before the start of the criminal case. If no decision to start the criminal case is taken within 24 hours of the person being detained, the person shall be released immediately. Even if this decision is taken, the detention of the person may not exceed 48 hours. The detained person shall be charged within 48 hours of being taken into custody and shall be brought before a court; the court shall examine the case without delay and decide between arrest as a restrictive measure and release.

Article 149. Apprehension of a person who has committed an offence with the aid of a person who witnessed the act

149.1. If the person committing an offence tries to escape during or immediately after the offence, a witness to the act may assist the prosecuting authority in apprehending the person, as follows:

149.1.1. he may tie up the person's hands and feet if he resists;

149.1.2. if the person who committed the offence is thought to have a gun or other dangerous weapon or to be carrying anything else which may be of significance to the criminal case, he may search him and seize these items for presentation to the prosecuting authority.

149.2. If he is not an official of the prosecuting authority, the person apprehending the offender shall immediately call the police, and, if this is impossible, shall bring the detained person to the police by force without delay.

Article 150. Detention of a person to charge him

150.1. If the evidence collected on a criminal case gives grounds to suppose that a person has committed an act provided for in criminal law, and if this person lives in another area or if his abode is not known, the investigator or prosecutor may decide to detain him. If a person hides from the prosecuting authority or intentionally fails to comply with a summons, and it is decided to detain him in order to charge him, the investigator or prosecutor shall at the same time announce a search for him.

150.2. Any official of the preliminary investigating authority, investigator or prosecutor who traces the suspect shall execute the decision to detain him in order to charge him, and immediately afterwards shall inform the investigator or prosecutor who took that decision.

150.3. The detention of the suspect shall not exceed 48 hours before he is charged. Pending the decision on arrest as a restrictive measure, the detained person shall be brought before a court within 48 hours of being taken into custody, and the court shall examine the case without delay and decide between arrest as a restrictive measure and release.

Article 151. Detention of an accused person who has violated a restrictive measure

151.1. If the conditions governing the chosen restrictive measures are violated by the accused, the investigator or prosecutor may decide to detain him.

151.2. If house arrest or bail is chosen by the judge as a restrictive measure in respect of the accused and if he violates the conditions governing that measure, the prosecutor shall take a decision about the detention of the person and shall also send a recommendation for his arrest to the court.

151.3. When a decision is made to detain a person who is hiding from the prosecuting authority or intentionally failing to comply with a summons in violation of the conditions governing a restrictive measure, the investigator or prosecutor shall announce a search for this person immediately.

151.4. The decision to detain the accused because of his violation of the conditions governing a restrictive measures shall be executed by the official of the preliminary investigating authority, the investigator or the prosecutor who discovers the accused, and who shall immediately inform the investigator or prosecutor who issued the decision..

151.5. The detention of the accused for violation of restrictive measures may not exceed 48 hours. To resolve the question of replacing the chosen restrictive measure with arrest, the person shall be brought to court within 48 hours, the court shall examine the case without delay and shall decide between arrest as a restrictive measure and release.

Article 152. Detention in order to settle the question of forcibly sending the sentenced person to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release

152.1. In the following cases the institution or authority enforcing the sentence shall submit a recommendation for the court to give a decision on the detention of the sentenced person in order to settle the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release:

152.1.1. if the sentenced person escapes and hides or attempts to avoid going to the appropriate institution or authority;

152.1.2. if the sentenced person constantly and intentionally evades performing the duties imposed on him by the court.

152.2. When making the decision about detention in order to settle the question of forcibly sending the sentenced person to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release, the court shall decide on the period of detention within 7 (seven) days of the date on which he was detained.

152.3. The court decision about the detention of a person in order to settle the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release shall be sent for enforcement to the police authority in the home area of the sentenced person. The authority which has implemented the decision about detention shall immediately inform the court of this.

152.4. The detention of a person in order to settle the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release may not exceed the period set by the court; within this period the detained person shall be brought to court and the court shall examine the case without delay and decide about forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release, as well as whether the sentence handed down in the judgment is to be executed or the person is to be released.

Article 153. Safeguarding of detainees' rights

153.1. In the event of detention, the prosecuting authority shall secure the detainee's rights as suspect or accused, depending on his legal status as provided for in this Code.

153.2. To secure the rights of the detainee, the officials of the prosecuting authority and those in charge of the temporary detention facility shall:

153.2.1. inform the detainee immediately after detaining him of the grounds for detention, and explain to him his right not to testify against himself and his close relatives as well as his right to the assistance of defence counsel;

153.2.2. take the detainee without delay to the police or other preliminary investigating authority's temporary detention facility, register the detention, draw up a record and show him the detention record;

153.2.3. report each instance of detention, immediately after registration in the temporary detention facility, to the head of the appropriate preliminary investigating authority and to the prosecutor in charge of the procedural aspects of the investigation (this information shall be given in writing within 12 hours of detention);

153.2.4. secure the right of the person to inform others of his detention immediately after detention (the authority in charge of the temporary detention facility, on his own initiative, shall inform the family members of any detainees who are elderly, under age or unable to do so themselves because of their mental state);

153.2.5. provide opportunities for the person, from the moment of detention, to meet in private and in confidence with his lawyer and legal representative under decent conditions and under supervision;

153.2.6. if the detainee does not have a lawyer of his own, present him with a list of lawyers from the bar association offices in the vicinity of the temporary detention facility, contact the chosen lawyer and create an opportunity for the detainee to meet him;

153.2.7. if the financial position of the detainee does not enable him to retain a lawyer at his own expense, create an opportunity for him to meet the duty lawyer from one of the bar association offices in the vicinity of the temporary detention facility, at the state's expense;

153.2.8. if the detainee refuses the services of a lawyer, receive his written request to that effect (if he evades writing the request, a record to that effect shall be drawn up between the lawyer and the representative of the temporary detention facility);

153.2.9. secure the right of any person who does not know the language of the criminal proceedings to use the services of an interpreter free of charge;

153.2.10. not treat the detainee in a way that fails to respect his personality or dignity, and pay special attention to women and persons who are under age, elderly, ill or disabled;

153.2.11. take the restrictive measure of arrest in respect of the detainee, and bring him to court in good time in order to ensure that the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release is settled within the time limits provided for in Articles 148 and 150-152 of this Code;

153.2.12. perform the duties prescribed in Article 161.0.1-161.0.8 and 161.0.10 of this Code.

153.3. The prosecuting authority shall release the detainee in the following circumstances:

153.3.1. if suspicions of the commission of an act provided for in criminal law are not confirmed;

153.3.2. if there is no need to remand the person in custody;

153.3.3. if it is determined that detention involved a serious violation of the law;

153.3.4. if the court decision to arrest the detainee is not made within 7 (seven) days of his detention to settle the question of forcibly sending him to the place where the sentence or other final court decision is to be executed, replacing the penalty given to him with another or repealing his suspended sentence or conditional release, or in other cases within 48 hours of his detention.

153.4. In the cases described in Article 153.3.1-153.3.3 of this Code, the detainee may be released as appropriate by the preliminary investigator, the investigator, the prosecutor in charge of the procedural aspects

of the investigation or the court and, in the case described in Article 153.3.4. of this Code, also by the authority in charge of the temporary detention facility.

153.5. A person detained as the suspected perpetrator of an offence and released because the suspicion is not proven may not be detained again on the same suspicion.

Chapter XVII

RESTRICTIVE MEASURES

Article 154. Concept and types of restrictive measure

154.1. A restrictive measure is a coercive procedural measure intended to prevent unlawful behaviour by the suspect or accused during criminal proceedings and to ensure the execution of the sentence; it shall be applied in the cases described in Article 155.1 of this Code.

154.2. Restrictive measures may be the following:

154.2.1. arrest;

154.2.2. house arrest;

154.2.3. bail;

154.2.4. restraining order;

154.2.5. personal surety;

154.2.6. surety offered by an organisation;

154.2.7. police supervision;

154.2.8. supervision;

154.2.9. military observation;

154.2.10. removal from office or position.

154.3. Arrest, house arrest or bail may be applied only to an accused person. Only minors may be placed under supervision. Military observation may be applied only to military personnel or to a person undergoing military training on a course for officers.

154.4. The restrictive measures prescribed for in Article 154.2.1-154.2.9 of this Code shall be the principal restrictive measures and may not be combined. Removal from office or position may be applied as a principal restrictive measure or combined with another restrictive measure. House arrest and bail shall be alternatives to arrest and, after a court decision to arrest the accused, may be applied instead of arrest.

Article 155. Grounds for the application of restrictive measures

155.1. Restrictive measures may be applied by the relevant preliminary investigator, investigator, prosecutor in charge of the procedural aspects of the investigation or court when the material in the prosecution file gives sufficient grounds to suppose that the suspect or accused has:

155.1.1. hidden from the prosecuting authority;

155.1.2. obstructed the normal course of the investigation or court proceedings by illegally influencing parties to the criminal proceedings, hiding material significant to the prosecution or engaging in falsification;

155.1.3. committed a further act provided for in criminal law or created a public threat;

155.1.4. failed to comply with a summons from the prosecuting authority, without good reason, or otherwise evaded criminal responsibility or punishment;

155.1.5. prevented execution of a court judgment.

155.2. In resolving the question of the necessity for a restrictive measure and which of them to apply to the specific suspect or accused, the preliminary investigator, investigator, prosecutor in charge of the procedural aspects of the investigation or court shall bear in mind:

155.2.1. the seriousness and nature of the offence with which the suspect or accused is charged and the conditions in which it was committed;

155.2.2. his personality, age, health and occupation and his family, financial and social positions, including whether he has dependents and a permanent residence;

155.2.3. whether he has committed a previous offence, the previous choice of restrictive measure and other significant facts.

155.3. Arrest, or restrictive measures as an alternative to it, may be applied only as follows:

155.3.1. to a person charged with an offence punishable by deprivation of liberty for a period of more than two years;

155.3.2. in order to prevent the acts provided for in Article 155.1.1. and 155.1.2., to a person charged with an offence punishable by deprivation of liberty for a period of less than two years.

155.4. A suspect or accused may be placed under police supervision only if he is charged with an offence punishable by deprivation of liberty.

155.5. If there is no need for a restrictive measure, a written undertaking shall be obtained from the suspect or accused to attend when summoned by the preliminary investigator, investigator, prosecutor in charge of the procedural aspects of the investigation or court, and to notify them of any change of address.

155.6. In all cases where a restrictive measure is applied, as well as in the case described in Article 155.5. of this Code, the passport or other document confirming the identity of the suspect or accused shall be taken from him and added to the prosecution file until the final resolution of the suspicion or charge.

Article 156. General rules governing the choice of restrictive measure

156.1. Restrictive measures shall be decided by the preliminary investigator, the investigator, the prosecutor in charge of the procedural aspects of the investigation or the court. The offence committed by the suspect or accused and the grounds for the need to apply a restrictive measure based on the preliminary evidence shall be indicated in the decision on the choice of restrictive measure.

156.2. Arrest and removal from office or position may be chosen at the request of the investigator, on a submission by the prosecutor in charge of the procedural aspects of the investigation or on the initiative of the court examining the criminal case, but only on the basis of a court decision. House arrest or bail may be chosen by the court instead of arrest at the request of the defence.

156.3. The prosecuting authority shall immediately inform the suspect or accused of the restrictive measure chosen and present him with a copy of the decision.

156.4. In the event of the criminal proceedings being discontinued, the restrictive measures chosen for the suspect or accused shall be terminated.

Article 157. Arrest

157.1. In accordance with the principle of the presumption of innocence, if the connection of the person to the offence committed is not proven, he may not be arrested or unnecessarily detained on remand.

157.2. Arrest as a restrictive measure may be chosen in the light of the requirements of Articles 155.1 - 155.3 of this Code.

157.3. A person arrested on the grounds of a court decision may not be held in a temporary detention facility for longer than 24 hours, and before the expiry of this period, he shall be transferred to the investigating authority's remand facility (this period shall not include the time spent transporting the arrested person to the remand facility).

157.4. The investigator, the prosecutor in charge of the procedural aspects of the investigation or the court may instruct the authority in charge of the remand facility to hold persons charged with the same offence or related offences apart and to prevent conversations between the accused and other arrested persons, as well as on other matters, provided that these do not contravene the rules on detention on remand. .

157.5. When examining the question of arrest as a restrictive measure, the court, if it decides that there is no need to isolate the accused from society by detaining him on remand, shall have the right to substitute house arrest for arrest. The court may simultaneously make its decision about arrest and resolve the matter of releasing the accused from arrest by granting bail, and if this release is considered possible, it shall determine the amount of bail. The court may review its decision about the inadmissibility of bail and the amount of bail at the request of the defence.

157.6. The parties to criminal proceedings may complain to the appeal court about a court decision to apply, or not to apply, arrest as a restrictive measure. The decision of the appeal court on this matter shall be final.

157.7. A court which has decided on arrest as a restrictive measure shall have the right to change or cancel this decision before the end of the remand period on the basis of a submission by the prosecutor in charge of the procedural aspects of the investigation.

157.8. The investigator or the prosecutor in charge of the procedural aspects of the investigation may discontinue the application of arrest as a restrictive measure decided by a court only in the following cases:

157.8.1. if, according to medical opinion, the seriousness of the accused person's illness makes it impossible to detain him on remand;

157.8.2. if a decision is made to the effect that the act committed by the accused is not an offence posing a major public threat.

Article 158. The remand period

158.1. At the pre-trial stage of the criminal case, when it chooses arrest as a restrictive measure, the court shall specify a remand period of up to 2 (two) months in respect of offences which do not pose a major public threat or minor offences and of up to 3 (three) months in respect of serious and very serious offences.

158.2. The remand period shall begin at the time of actual arrest if the accused is detained or, if he is not held, at the time of the implementation of the court decision on arrest as a restrictive measure. The following shall be included in the period for which the suspect or accused is detained on remand:

158.2.1. the period of detention and remand;

158.2.2. the period of house arrest;

158.2.3. the period during which he was detained in a medical establishment for an in-patient medical report under coercive procedural measures or on account of temporary illness.

158.3. At the pre-trial stage of the criminal case, the remand period, other than in cases of prolongation of the period as prescribed by Article 159 of this Code, may not exceed the above-mentioned periods. The remand period in respect of the suspect or accused shall be calculated by adding together all periods of detention on remand, house arrest and time spent at a medical establishment. The remand period at the pre-trial stage of the criminal case shall be suspended on the day when the case is sent to court or when detention on remand or house arrest as a restrictive measure is discontinued.

158.4. When the period of detention on remand as a restrictive measure is calculated, the period during which the accused and his defence counsel acquaint themselves with the case file shall not be taken into consideration.

158.5. The period of detention on remand of the accused in criminal cases within the jurisdiction of first instance and appeal courts may not exceed:

158.5.1. 3 (three) months where offences do not constitute a major public threat;

158.5.2. 5 (five) months for minor offences;

158.5.3. 7 (seven) months for serious offences;

158.5.4. 9 (nine) months for very serious offences.

158.6. During the criminal proceedings (pre-trial and in first instance and appeal courts), the remand period shall be included in the term of punishment imposed on the accused by the court.

Article 159. Prolongation of the period of detention on remand during the pre-trial proceedings

159.1. At the pre-trial stage of criminal proceedings, the period of detention on remand of the accused may be prolonged by a court, depending on the complexity of the case: for those offences which do not pose a major public threat, for no longer than 1 (one) month; for minor offences, for no longer than 2 (two) months; for very offences, for no longer than 3 (three) months, and for very serious offences, for no longer than 4 (four) months.

159.2. At the pre-trial stage, in an exceptionally complicated case, the remand period may again be prolonged by the court: for minor offences, for no longer than 2 (two) months; for serious offences, for no longer than 3 (three months), and for very serious offences, for no longer than 5 (five) months.

159.3. An investigator who considers it necessary to prolong the period of detention on remand of the accused shall submit the appropriate reasoned request to the prosecutor in charge of the procedural aspects of the investigation at least 7 (seven) days before the expiry of the remand period. If the prosecutor in charge of the procedural aspects of the investigation agrees with the need to prolong the remand period, he shall address the appropriate submissions at to the court least 5 (five) days before the expiry of the remand period decided by court. If the court agrees with the need to prolong the term of detention on remand of the accused, it shall decide to do so before the end of the period imposed by the decision adopting the restrictive measure.

159.4. When deciding whether to prolong the remand period, the court shall have the right to substitute house arrest for detention on remand or to release the accused by granting bail and determining the amount of bail.

159.5. When deciding to prolong the period of detention on remand of the accused, the court shall determine the further periods as prescribed by Articles 159.1 and 159.2 of this Code.

159.6. A court decision to prolong the remand period, or not to do so, shall be subject to an appeal to the appeal court. The appeal court's decision on this matter shall be final.

159.7. During the pre-trial proceedings, the period of detention on remand of the accused shall on no account exceed:

159.7.1. 3 (three) months for offences which do not pose a major public threat;

159.7.2. 6 (six) months for minor offences;

159.7.3. 9 (nine) months for serious offences;

159.7.4. 12 (twelve) months for very serious offences.

Article 160. The right to protection and to supervision of property

160.1. Persons who are under age or unfit for work, and who, as a result of the arrest of a parent or the family breadwinner or other acts of the prosecuting authority, are without care and supervision and are deprived of the essentials of life shall have the right to be protected, and the authority concerned shall provide protection at the expense of the state budget of the Azerbaijan Republic. The prosecuting authority's instructions on the temporary placement, supervision and care in public social welfare or medical institutions of persons unfit for work shall be binding on guardianship institutions and their officials. The prosecuting authority shall have the right to entrust those who are under age or unfit for work to the protection of relatives with the latter's consent.

160.2. A person whose property is unsupervised as a result of his arrest or other acts of the prosecuting authority, shall have the right to have his property supervised. The said authority shall grant the person's request for supervision of his property at his own expense. The prosecuting authority's instructions about arrangements for supervision of the person's property shall be binding on the relevant public authorities, institutions, administrative departments and organisations.

160.3. The prosecuting authority shall without delay inform the arrested person or other interested parties of the measures taken in accordance with this article.

Article 161. Duties of the authority in charge of the remand facility

161.0. The authority in charge of the remand facility shall:

161.0.1. immediately register each person brought to the remand facility in compliance with a court decision on arrest as a restrictive measure;

161.0.2. immediately inform, at the request of the person newly brought to the remand facility, his family, friends or other lawful contacts about his arrest and place of detention (if the person concerned does not want to let the above-mentioned people know of his arrest and place of detention, the authority in charge of the remand facility shall not do so on its own initiative unless this is essential, for example by reason of the person's advanced age, mental state or similar circumstances);

161.0.3. except where restrictions apply in the interests of justice, security and the rules of the remand facility, arrange for the person to meet members of his family, friends or other lawful contacts in decent conditions and under supervision;

161.0.4. guarantee the security of those detained on remand and ensure that they receive the necessary defence and assistance;

161.0.5. give persons detained on remand copies of the procedural documents sent to them on the day of receipt; if the documents are received at night, then by 12 noon next day;

161.0.6. register complaints and any other applications by those detained on remand;

161.0.7. forward complaints and other applications addressed by persons detained on remand to the investigator, the prosecutor in charge of the procedural aspects of the investigation or the court without delay;

161.0.8. mention in the record the refusal of a person detained on remand to come to court;

161.0.9. allow the person to meet his defence counsel or legal representative without obstacles, confidentially, in private and without restrictions on the number of meetings or their duration;

161.0.10. ensure that the person detained on remand is taken to the prosecuting authority on time;

161.0.11. on the instructions of the investigator, prosecutor or court, enable investigative or other procedures to be carried out at the remand facility where the person is held;

161.0.12. transfer the person to another remand facility if so decided by the prosecuting authority; obey other instructions of the prosecuting authority which are not contrary to the regime of detention on remand as determined by law;

161.0.13. 7 (seven) days before the end of the remand period, inform the prosecutor in charge of the procedural aspects of the investigation;

161.0.14. release those arrested without the appropriate court decision, or whose remand period determined by court decision is over, and if the bail determined by a court has been paid, release the person from detention immediately and inform the appropriate judge (court) of the fact.

Article 162. Release from detention on remand

162.1. Persons shall be released from detention on remand by court decision in the following cases:

162.1.1. if the charge concerning an act provided for in criminal law is not confirmed, or if the criminal proceedings in court are discontinued;

162.1.2. if the penalty imposed by the court on a convicted person does not involve deprivation of liberty or detention in a disciplinary military unit or on remand;

162.1.3. if it is determined that there is no need for the person to be detained on remand.

162.2. The accused may also be released from detention on remand on the basis of a decision of the investigator or prosecutor to discontinue the criminal proceedings.

162.3. A person detained on remand in the circumstances provided for in Article 162.1.1 and 162.1.2 of this Code shall be released from detention immediately at the court hearing.

162.4. If a copy of the prosecuting authority's decision to cancel or alter the restrictive measure of arrest is received, the person shall immediately be released from detention by the head of the remand facility.

162.5. Without a decision of the prosecuting authority, the head of the remand facility shall release a person from detention in the following cases, and shall draw up a record of the fact:

162.5.1. if the remand period determined by court decision is over and has not been prolonged;

162.5.2. if the total remand period laid down in Article 159.7 of this Code is over;

162.5.3. if information is received from the prosecuting authority that the bail determined by the court for release from detention on remand has been received.

162.6. After release from detention, a person may not be arrested on the same charge again, except in cases where the prosecuting authority is informed of important new circumstances or of a violation of the conditions governing the restrictive measure applied to him.

Article 163. House arrest

163.1. House arrest is a restrictive measure which restricts a person's liberties and some other rights by a court decision, without the accused being detained on remand and isolated completely from society.

163.2. The choice of house arrest as a restrictive measure may be considered only at the request of the defence instead of the decision taken for the person's arrest.

163.3. House arrest may be accompanied by application of the following measures, separately or where possible jointly:

163.3.1. prohibition of leaving one's home at any time or at certain times;

163.3.2. prohibition of speaking on the telephone, sending mail or using other means of communication;

163.3.3. prohibition of contact with certain people and of receiving visits from anyone at home;

163.3.4. application of electronic monitoring devices and obligation to wear them and operate them;

163.3.5. obligation to answer supervisory telephone calls or other monitoring signals, to telephone the preliminary investigating authority or other authority monitoring the behaviour of the accused at fixed times, or to attend personally;

163.3.6. placing under observation of the accused or his home, as well as a police guard on his house, flat or other accommodation given to him;

163.3.7. other measures which ensure the required behaviour and partial isolation of the accused.

163.4. The rules governing decisions about house arrest, its duration and prolongation and release from house arrest shall be regulated by the provisions of this Code on arrest as a restrictive measure.

163.5. When a court decides whether to release an accused person from detention on remand, it shall decide whether or not to order house arrest as a restrictive measure. Complaints or appeals against the court decision to apply house arrest as a restrictive measure may be made to the court of appeal. If the prosecutor in charge of the procedural aspects of the investigation does not agree with the decision:

163.5.1. the court decision on house arrest as a restrictive measure shall become final only after confirmation by the court of appeal;

163.5.2. before the legality and grounds of this decision are examined by the court of appeal, the decision on arrest as a restrictive measure taken by the court of first instance shall remain in force until the matter of house arrest is decided.

163.6 Application of house arrest as a restrictive measure may be discontinued if so decided by the investigator or the prosecutor in charge of the procedural aspects of the investigation in the circumstances provided for in Article 157.8 of this Code.

Article 164. Bail

164.1. Bail shall require a sum of money (securities) or other items of value determined by a court to be deposited in the state bank in the court's name, in order to release from arrest, while guaranteeing that he remains at the disposal of the prosecuting authority, a person charged with an offence which does not pose a serious public threat, with a minor offence or with committing a serious offence through negligence. By court decision, immovable property may also be accepted as a deposit.

164.2. The choice of bail as a restrictive measure may be considered by a court only at the request of the defence, instead of the decision taken for the person's arrest.

164.3. The deposit may be taken from the property and funds of the accused or the property and funds of his close relatives or of other individuals and legal entities. The duty to prove the value of the deposit shall rest with the person making it.

164.4. In any of the cases provided for in Article 155.1 and 155.2 of this Code, a court may, on appropriate grounds, deny bail.

164.5. The court shall not set too high a sum to be deposited, but the amount shall not be less than:

164.5.1. the equivalent of five thousand times the minimum wage where the charge concerns an offence which does not pose a major social threat;

164.5.2. the equivalent of ten thousand times the minimum wage where the charge concerns a minor offence or an offence committed through negligence.

164.6. When the court considers whether to release the accused from arrest on bail, it shall decide whether to apply bail as a restrictive measure or not. Complaints and appeals against the application of bail as a restrictive measure may be made to the court of appeal. If the prosecutor in charge of the procedural aspects of the investigation does not agree with the decision:

164.6.1. the court decision on bail as a restrictive measure shall become final only after confirmation by the court of appeal;

164.6.2. before the legality and grounds of this decision are examined by the court of appeal, the decision taken by the court of first instance on arrest as a restrictive measure shall remain in force until the matter of bail is decided.

164.7. When the court substitutes bail for arrest, the accused shall be kept under arrest until the sum to be deposited shall be transferred to the state bank in the court's name. When the prosecuting authority receives confirmation that the deposit has been made, and once the court decision has become final, it shall inform the head of the remand facility that the accused is to be released immediately.

164.8. If the accused hides from the prosecuting authority or goes elsewhere without its permission or otherwise eludes criminal responsibility and punishment, the prosecutor in charge of the procedural aspects of the investigation may apply to the court for the transfer of the deposit to the state. The person who placed the deposit may complain to the court of appeal against transfer of this deposit to the state.

164.9. After the court judgment has become final, and in cases where the violations provided for in Article 164.8 of this Code are not proven, or if bail is cancelled or altered, the deposit shall be returned to the person who placed it. The decision about the return of the deposit shall be made by the court at the same time as it gives the judgment or decides to alter or cancel the restrictive measure.

164.10. In the case described in Article 164.8 of this Code, at the same time as the transfer of the deposit to the state, the court shall substitute arrest for bail on the basis of a submission by the prosecutor in charge of the procedural aspects of the investigation.

164.11. The application of bail as a restrictive measure may be discontinued in the circumstances provided for in Article 157.8. of this Code on the grounds of a decision by the investigator or prosecutor.

Article 165. Restraining order

165.1. A restraining order is a restrictive measure under which the suspect or accused shall make a written undertaking to remain at the disposal of the prosecuting authority, not to go elsewhere without its permission, not to hide from it, not to engage in criminal activity, impede the investigation, investigation or court hearing, to attend as required by the preliminary investigator, investigator, prosecutor or court and to inform them of any change of address.

165.2. A restraining order shall be imposed on the suspect or accused by the prosecuting authority.

Article 166. Personal surety

166.1. Personal surety as a restrictive measure shall require a written commitment by an individual to the effect that the suspect or accused will not breach the peace, will attend as required by the prosecuting authority and will carry out his other procedural duties.

166.2. Personal surety may be given by any citizen of the Azerbaijan Republic who is of full age, who can be relied on and who has deposited in advance the equivalent of five hundred times the minimum wage in the state bank in the court's name, a sum which will be taken as a fine if he fails to honour his commitment.

166.3. The number of persons offering personal surety may be from 2 to 5, as decided by the prosecuting authority.

166.4. The rights and duties of the persons offering personal surety as well as the relevant arrangements are laid down in Article 168 of this Code.

Article 167. Surety offered by an organisation

167.1. Surety offered by an organisation as a restrictive measure shall require a written commitment by a legal entity registered by the state under the legislation of the Azerbaijan Republic to the effect that the suspect or accused will not breach the peace, will attend as required by the prosecuting authority and will carry out other procedural duties. A sum equivalent to one thousand times the minimum wage shall be deposited in advance in the court's name at the state bank, and this shall be taken as a fine if the legal entity fails to honour its commitment.

167.2. The rights and duties of the organisation offering surety, as well as the relevant arrangements, are laid down in Article 168 of this Code.

Article 168. Rules governing surety

168.1. The prosecuting authority shall first ascertain the reliability of the provider of the surety and the possibility of choosing personal or organisational surety in respect of the suspect or accused, then acquaint the applicant (including the representative of the legal entity) with the substance of the suspicion or charge, explain the rights and duties of the provider of surety and inform the provider of his responsibility. After that the applicant may confirm or withdraw his request.

168.2. The procedures described in Article 168.1 of this Code shall be mentioned in the record. If the provision of personal or organisational surety is applied as a restrictive measure, information about the provider of surety shall be given in the decision of the prosecuting authority. A copy of the appropriate decision shall be given to the provider of the surety without delay.

168.3. The provider may withdraw surety at any stage of the criminal proceedings, if the suspect or accused is charged with a new or more serious offence, if significant circumstances are discovered which the provider did not and could not know when he agreed to provide surety, if he moves to another place or becomes seriously ill, if the activity of the organisation standing surety is discontinued, if the suspect or accused moves to another place or to another organisation, or if the provider of surety is unable to answer for the future behaviour of the suspect or accused. In such cases the prosecuting authority shall return to the provider the sum of money deposited as surety for the fine.

168.4. The provider of surety shall also have the right to withdraw the sum of money deposited as surety for the fine in the following cases:

168.4.1. if the prosecuting authority changes the restrictive measure, but not because of inappropriate behaviour by the suspect or accused;

168.4.2. if the prosecuting authority cancels personal or organisational surety as a restrictive measure.

168.4.3. if the provider of surety loses legal capacity.

168.5. The sum of money deposited as surety shall be transferred to the state by a decision of the prosecuting authority in the following cases:

168.5.1. if the commitment to appropriate behaviour by the suspect or accused is not met;

168.5.2. if he refuses the surety himself.

168.6. A complaint may be made to the courts against the transfer to the state of the sum deposited as surety.

Article 169. Police supervision

169.1. Police supervision as a restrictive measure shall entail the application to the suspect or accused of the legal restrictions provided for in this article.

169.2. The suspect or accused who is under police supervision may not go elsewhere or change his permanent or temporary address within the boundaries of the appropriate settlement without the permission of the preliminary investigator, investigator, prosecutor or court. He shall resort to the police according to the schedule determined by the police and shall register his presence. With a view to supervising his behaviour, the suspect or accused may be summoned by the police at any time. To this end, the relevant police officials shall have the right to come to the house of the suspect or accused, even against his will.

169.3. To implement the prosecuting authority's decision to impose police supervision as a restrictive measure, the decision shall be delivered to the police authorities in the locality where the suspect or accused lives. Within 24 hours of the receipt of the afore-mentioned decision, the police shall summon the suspect or accused, register him and inform the prosecuting authority that the supervision has begun.

Article 170. Supervision

170.1. Supervision as a restrictive measure shall entail making the parents or guardians of an under-age suspect or accused, or the management of the closed children's institution where he is kept, responsible for ensuring that he does not breach the peace, attends as required by the prosecuting authority and performs other procedural duties.

170.2. Before placing the under-age person under supervision, the preliminary investigator, investigator, prosecutor or court shall collect information about the character of the parents or guardians and their relationship with the under-age person and ensure that they have the means to exercise the necessary supervision over the suspect or accused.

170.3. When it has satisfied itself of the possibility of imposing supervision on the suspect or accused as a restrictive measure, the prosecuting authority shall decide on the appropriate restrictive measure. It shall inform the parents, guardian or representative of the children's institution of the decision and present a copy of the decision to them. The authority shall inform them of the substance of the suspicion or charge, explain their rights and duties and inform them about their responsibility, and this shall be placed on record.

170.4. Parents and guardians shall have the right to request to be released from supervision of the under-age suspect or accused because of illness, deterioration of mutual relations in the family or other reasons which prevent them from guaranteeing the required behaviour by the person concerned.

170.5. Persons required to exercise supervision shall not be entitled to claim that they are unable to supervise the behaviour of the suspect or accused, except in cases where they can prove the influence of forces beyond their control.

170.6. Persons required to exercise supervision of the suspect or accused shall inform the prosecuting authority of inappropriate behaviour by the suspect or accused.

170.7. Persons required to exercise supervision of the accused who do not perform their duties shall be liable under the legislation of the Azerbaijan Republic.

Article 171. Military observation

171.1. Military observation as a restrictive measure shall entail making the commander of the military unit where the suspect or accused is serving or undergoing officer training, or the head of the military institution concerned, responsible for ensuring that the person does not breach the peace, attends as required by the prosecuting authority and performs other duties.

171.2. After ascertaining the possibility of choosing military observation as a restrictive measure in respect of the suspect or accused, the prosecuting authority shall issue a decision to that effect. The authority shall inform the representative of the military command of the decision on the restrictive measure and present a copy of this decision to him. It shall acquaint him with the substance of the suspicion or charge, explain his rights and duties and inform him about his responsibility, and this shall be placed on record.

171.3. The military command shall have the right to take measures in accordance with the regulations governing all forces to supervise the person subordinate to it and guarantee the required behaviour by him.

171.4. When a restrictive measure of military observations is adopted in respect of the suspect or accused, he may not be detailed for guard or active duty and may not carry arms in peace time; military personnel who are not officers, low-ranking commissioned officers or warrant officers may not be sent outside the confines of the military unit to work on their own and shall not be allowed to leave the confines of the unit.

171.5. Except in cases when the military command exercising supervision can prove the influence of forces beyond its control, it shall not be entitled to claim that it is unable to supervise the behaviour of the suspect or accused.

171.6. The military command supervising the suspect or accused shall inform the prosecuting authority of inappropriate behaviour by the person under its supervision.

171.7. Persons required to exercise military observation who do not fulfil their duties shall be liable under the legislation of the Azerbaijan Republic.

Article 172. Removal from office or position

172.1. Removal from office or position as a restrictive measure shall entail prohibiting the suspect or accused from exercising his professional responsibilities, doing his work or pursuing his activities.

172.2. If there are sufficient grounds for removing the suspect or accused from office or position as a restrictive measure, the prosecutor in charge of the procedural aspects of the investigation may prohibit him within 3 (three) days from exercising his professional responsibilities, doing his work or continuing his activities, on the basis of a reasoned decision. Simultaneously, the prosecutor in charge of the procedural aspects of the investigation shall send submissions to the court about the decision to remove the suspect or accused from office or position as a restrictive measure.

172.3. A copy of the court decision on removal from office or position as a restrictive measure shall be sent for immediate implementation to the manager of the workplace of the suspect or accused, who from then on shall no longer be entitled to allow him to engage in the prohibited work or activities.

Article 173. Complaints against restrictive measures

173.1. The suspect or accused, his defence counsel and legal representative, and other interested parties to criminal proceedings may complain against a decision adopting or amending a restrictive measure to the prosecutor in charge of the procedural aspects of the investigation or to the court.

173.2. Complaints against court decisions on restrictive measures, other than at the pre-trial stage, may not be lodged with the court of appeal.

Article 174. Confirmation of restrictive measure

174.1. The preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation who is responsible for the criminal case shall verify the legality of, and the need to maintain unchanged, restrictive measures previously applied by other persons (excluding judges), and shall make the appropriate decision. (The preliminary investigator or investigator shall not be empowered to verify a decision of the prosecutor).

174.2. The court, after receiving the case on completion of the investigation, may confirm, annul or alter a restrictive measure applied at the pre-trial stage.

Article 175. Alteration, annulment or discontinuation of restrictive measures

175.1. A restrictive measure may be replaced with a less severe one by the prosecuting authority acting in accordance with its powers, if the need for this is proved, and if it is possible to guarantee the behaviour of the suspect or accused and execution of the judgment in the course of a criminal case.

175.2. If there is no longer any need for a restrictive measure, the prosecuting authority shall annul it in accordance with its powers.

175.3. The restrictive measure of arrest, house arrest or bail decided by a court may be altered or annulled only by the court. The investigator or the prosecutor in charge of the procedural aspects of the investigation may, in the circumstances provided for in Articles 157.8, 163.6 and 164.11 of this Code, discontinue the application of arrest, house arrest or bail decided as a restrictive measure by a court.

175.4. If the prosecuting authority annuls, alters or discontinues the application of arrest as a restrictive measure, it shall inform the head of the remand facility on the same day and send a copy of the relevant decision to him.

175.5. The appropriate restrictive measure shall be regarded as having lapsed after it has been annulled or altered, after prosecution of the suspect or accused has been discontinued or after execution of the punishment imposed has begun.

Chapter XVIII

APPLICATION OF OTHER COERCIVE PROCEDURAL MEASURES DURING CRIMINAL PROCEEDINGS

Article 176. Coercive measures applied for the conduct of procedural acts

In addition to the coercive procedural measures provided for in Articles 147 and 154 of this Code, the prosecuting authority may apply other coercive measures for the conduct of procedural acts if it established circumstances which prevent the collection of evidence. In the circumstances provided for in Article 144.1.4 and 144.2 of this Code, the coercive procedural measures shall be applied in accordance with a court decision.

Article 177. The right to forcibly carry out investigative procedures

177.1. The prosecuting authority may, by force, carry out investigative procedures to guarantee the normal course of an investigation; it may take measures to make participants wait for the start of these procedures and to prevent them from leaving the place where they are to be held.

177.2. If the person concerned does not consent to the investigative procedure and if a court decision is requested for its compulsory conduct, the prosecutor in charge of the procedural aspects of the investigation shall apply to the court if he agrees with the investigator's reasoned request.

177.3. As a rule, a court decision shall be required in order to conduct the following investigative procedures by force:

177.3.1. examination, search or seizure and other investigative procedures in residential, service or industrial buildings;

177.3.2. the body search of a person other than a detained or arrested person against his will;

177.3.3. the attachment of property;

177.3.4. the confiscation of postal, telegraphic or other messages;

177.3.5. the interception of conversations held by telephone or other means and of information sent via communication media and other technical means;

177.3.6. the obtaining of information about financial transactions, bank accounts or tax payments and private life or family, state, commercial or professional secrets;

177.3.7. exhumation.

177.4. With the exception of examination, search and seizure, other investigative procedures in residential, service or industrial buildings and the investigative procedures provided for in Articles 177.3.6 and 177.3.7 of this Code may be conducted only under by court decision. The investigator may conduct the following procedures by force without a court decision:

177.4.1. on the grounds and under the circumstances provided for in Article 243.3 of this Code, he may conduct inspections, searches and seizures in residential, service or industrial buildings;

177.4.2. he may conduct body searches in the circumstances provided for in Article 238.2 of this Code;

177.4.3. he may seize property in the circumstances provided for in Article 249.5 of this Code;

177.4.4. he may confiscate postal, telegraphic or other messages and intercept conversations held by telephone or other means and information sent via communication media and other technical means if there are circumstances in which evidence of serious or very serious offences against the individual or central government must be established without delay.

177.5. If the investigative procedures for which Articles 177.3.1, 177.3.2, 177.3.4 and 177.3.5 of this Code provide are carried out by reasoned decision of the investigator in circumstances allowing no delay, the investigator shall fulfil the duties laid down in Article 443.2 of this Code.

177.6. No court decision shall be necessary for the investigator to carry out the investigative procedures provided for in Article 177.3.1 of this Code in residential, service or industrial buildings with the permission or by the invitation of the owners of those premises.

Article 178. Forcible appearance before the prosecuting authority

178.1. Forcible appearance before the prosecuting authority shall entail bringing a person by force to the prosecuting authority and forcibly guaranteeing his participation in investigative or other procedures.

178.2. This measure may be applied to a person participating in criminal proceedings and summoned by the prosecuting authority only in the following circumstances:

178.2.1. if he fails to attend in response to the compulsory summons of the prosecuting authority without good reason;

178.2.2. if he evades receipt of the summons from the prosecuting authority;

178.2.3. if he hides from the prosecuting authority;

178.2.4. if he has no permanent address.

178.3. Children under 14, pregnant women, persons who are seriously ill and victims bringing a private prosecution may not be forcibly brought before the prosecuting authority.

178.4. Forcible appearance before the prosecuting authority shall be based on a reasoned decision by the prosecuting authority or a court decision at the request of the parties to criminal proceedings.

178.5. The decision to forcibly bring a person before the prosecuting authority shall be enforced by the preliminary prosecuting authority or by another authority legally responsible for this duty.

SECTION FIVE

PROPERTY MATTERS IN CRIMINAL PROCEEDINGS

Chapter XIX

CIVIL CLAIMS IN CRIMINAL PROCEEDINGS

Article 179. Legislation applied to civil claims

179.1. A civil claim in criminal proceedings shall be filed, proven and settled in accordance with the provisions of this Code.

179.2. The rules of the Code of Civil Procedure shall be applied if they do not conflict with the principles of criminal proceedings and if the procedural rules governing civil claims are not laid down in this Code.

179.3. Decisions on civil claims shall be made, depending on the subject of the claim, in accordance with civil or other legislation.

179.4. The time limit set in civil law or other spheres of law shall not apply to civil claims made in criminal cases.

Article 180. Significance of a final court judgment or decision on a civil claim

180.1. A civil claim may not be filed again if there is a final court decision on a civil claim allowed on the same grounds, between the same parties and on a dispute on the same subject, or a final court decision endorsing the civil party's withdrawal of his claim or confirming a friendly settlement, or if there is a final court decision dismissing the claim or allowing it in full or in part.

180.2. If the person has not put forward a civil claim during a criminal proceedings, he shall have the right to claim during the civil proceedings

180.3. A civil claim filed during the criminal proceedings but not heard by the court may be filed later as part of the civil proceedings..

Article 181. Persons entitled to file civil claims

181.1. An individual or legal entity whose property is damaged shall have the right to file a civil claim during criminal proceedings in the following circumstances:

181.1.1. if the damage was caused directly by an act provided for in criminal law;

181.1.2. if the damage was connected with the commission of an act provided for in criminal law.

181.2. In the event of damage directly caused to an individual or legal entity by an act provided for in criminal law, he/it may apply for the following through a civil claim for compensation:

181.2.1. payment of the value of the lost or damaged property, or if possible, compensation in kind;

181.2.2. reimbursement of the cost of replacing lost property or repairing the quality and restoring the appearance of damaged property;

181.2.3. payment of lost earnings;

181.2.4. compensation for non-pecuniary damage.

181.3. Material damage shall be considered as connected with the commission of an act provided for in criminal law if it gives rise to the following expenditure:

181.3.1. for the treatment and care of the victim;

181.3.2. for the funeral of the victim;

181.3.3. for the payment of insurance, grant and pension;

181.3.4. for performance of the contract on protection of property.

181.4. A civil claim may be filed during criminal proceedings by the representative of the individual or legal entity.

181.5. In the event of the death of any individual who had the right to put forward a civil claim, that right shall be transferred to his heirs. If a legal entity ceases to exist or is reconstituted, its right to file a civil claim shall be transferred to its legal heir.

181.6. During criminal proceedings the prosecutor shall file and argue a civil claim in order to protect state property or uphold the rights of an individual entitled to make a civil claim who cannot defend his legal interests personally. A claim for compensation for non-pecuniary damage may be made by the prosecutor only at the request of the victim.

181.7. During criminal proceedings the prosecutor shall file and argue a claim against the accused or the person who is liable for his actions in respect of the claim in the following circumstances:

181.7.1. to defend the state's interests at the request of a state authority, institution or organisation;

181.7.2. if the individual entitled to file the civil claim lacks legal capacity or has limited legal capacity.

Article 182. Exemption of the civil party from state taxes

State taxes shall not be collected on civil claims made during criminal proceedings.

Article 183. The filing of civil claims

183.1. During criminal proceedings, a civil claim may be filed at any time from the beginning of the prosecution to the beginning of the court's examination of the case. A civil claim may be filed simultaneously with an application or complaint concerning an offence committed.

183.2. During criminal proceedings, a civil claim shall be filed against the accused or the person who is financially liable for his actions.

183.3. During criminal proceedings, a civil claim may be put forward only in written form. The claim application shall state the type of prosecution, the names of the parties and the grounds for and amount of the civil claim, and shall include a request for the seizure of a specific sum or of specific property to pay for the damage.

183.4. During criminal proceedings, the individual or legal entity concerned shall be entitled to add appendices and amendments to the civil claim before the parties to the criminal proceedings begin to address the court, if it is necessary to clarify the grounds of the civil claim and the amount of the claim.

Article 184. Refusal to accept a claim application

If, during criminal proceedings, an individual or legal entity cannot put forward a claim under the provisions of this Code, if the civil claim is not filed in time or to the appropriate person, or if the claim application does not meet the requirements of Article 183.3 of this Code, the prosecuting authority may refuse to accept the claim application.

Article 185. Guarantee of the payment of civil claims

During criminal proceedings, the preliminary investigator, investigator, prosecutor or court shall take measures to guarantee payment of a civil claim put forward at the request of the civil party or his representative, or on their own initiative, or a civil claim that may be raised in the future.

Article 186. Withdrawal of civil claims

186.1. During criminal proceedings, a person who has filed a civil claim may withdraw the claim at any stage of the prosecution until the court starts to deliberate with a view to passing judgment, provided that no other persons' rights and interests are violated. Persons on whose behalf the prosecutor has filed a civil claim shall also have this right.

186.2. Acceptance of the withdrawal of a civil claim by the preliminary investigator, investigator, prosecutor or court shall cause the civil claim process during criminal proceedings to be discontinued, and shall deprive the persons concerned of the right to file a further claim during the criminal proceedings.

Article 187. The court with jurisdiction in civil claims

187.1. Regardless of the amount of a civil claim, it shall be examined by the court dealing with the criminal case or other prosecution material, in conjunction with that case or material.

187.2. The court shall include its decision on the civil claim in its judgment during the criminal proceedings.

Article 188. Award of compensation for material damage on the initiative of the court

If the documents and evidence on the criminal case or other prosecution material make it possible, and if, in exceptional cases, the person making a civil claim is unable to defend the claim during the court proceedings, the court shall have the right to decide, on its own initiative, to award him compensation for the damage caused by the act provided for in the criminal law.

Chapter XX

PAYMENT OF COMPENSATION TO VICTIMS

Article 189. The right of victims to receive compensation

189.0. The victim shall have the right to receive compensation for the damage caused by an act provided for in criminal law if the commission of this act against him is established:

189.0.1. by a court judgment;

189.0.2. by a concluding decision of the prosecuting authority.

Article 190. Amount of compensation paid to victims

190.0. A victim shall be entitled to the following amount of compensation for the damage caused to him by an act provided for in criminal law:

190.0.1. the equivalent of three hundred times the minimum wage in the event of a very serious offence against him;

190.0.2. the equivalent of one hundred and fifty times the minimum wage in the event of a serious offence against him;

190.0.3. the equivalent of fifty times the minimum wage in the event of a minor offence against him;

190.0.4. the equivalent of ten times the minimum wage in the event of an offence against him which does not pose a major public threat.

Article 191. Decision on payment of state compensation to victims

191.1. The question of the payment to a victim of compensation under the state budget of the Azerbaijan Republic for the damage caused by an act provided for in criminal law shall be resolved by a court further to an application by the victim.

191.2. When including the decision to award state compensation to a victim in its judgment convicting the accused, the court shall also state the amount which the convicted person shall contribute to the compensation.

Chapter XXI

PAYMENT FOR WORK AND EXPENSES

Article 192. Payment, guarantees and compensation in respect of jury service

192.1. The juror shall be paid for every day of his attendance at court under the circumstances and conditions, and according to the amount, determined by the appropriate executive authority of the Azerbaijan Republic.

192.2. The juror:

192.2.1. shall be paid subsistence expenses according to the conditions and amount determined for judges by the legislation of the Azerbaijan Republic;

192.2.2. shall be paid travel expenses for his return journey to the court in accordance with local rates.

192.3. The duration of the juror's court duties shall be mentioned in his service record.

192.4. The juror shall retain all the guarantees and allowances secured for the employees of the administration, institution or organisation where he works.

192.5. The management of the administration, institution or organisation may not make an employee redundant or transfer him to lower-paid work during his period of jury service.

Article 193. Payment for the legal assistance provided by defence counsel

193.1. The legal assistance provided by defence counsel to the suspect or accused shall be paid for in accordance with the conditions agreed between the defence counsel and the accused, from the resources of the accused.

193.2. If the suspect or accused does not have sufficient means to pay for the services of defence counsel, and if the participation of defence counsel in the criminal proceedings must be guaranteed in accordance with Article 192.3 of this Code, the prosecuting authority shall guarantee the provision of legal assistance under the state budget of the Azerbaijan Republic.

193.3. The court shall make a reasoned decision on whether to exempt the suspect or accused from payment of the legal assistance provided by defence counsel and to pay for it from the state budget of the Azerbaijan Republic, taking into consideration the average monthly earnings, financial, property and family situation of the suspect or accused and other circumstances.

193.4. If the suspect or accused refuses defence counsel and if this refusal is not accepted by the prosecuting authority the legal assistance shall be provided to the persons concerned free of charge on the basis of the court decision, and defence counsel shall be paid from the state budget of the Azerbaijan Republic.

193.5. In accordance with Articles 193.2 -193.4 of this Code, defence counsel shall be paid on the basis of the bill presented by him for every working hour at the rate set by the appropriate executive authority of the Azerbaijan Republic, via the appropriate local bar association.

Article 194. Payment by the state for the legal assistance provided by the representative of a victim bringing a private prosecution

194.1. During court proceedings, if the public prosecutor withdraws a prosecution in the form of semi-public charges, the court shall decide on the conditions governing payment of the legal assistance provided by the victim's representative to enable the victim to pursue the prosecution. If the court gives a judgment convicting the accused, and if the person bringing a private prosecution is not financially able to pay his representative, the court shall make a reasoned decision to pay from the state budget of the Azerbaijan Republic.

194.2. The lawyer's legal assistance to the person bringing a private prosecution shall be paid for as provided for in Article 193.5 of this Code.

Article 195. Payment for the services of an interpreter, specialist or expert

195.1. During criminal proceedings, the services of the interpreter, specialist or expert shall be paid for in the following manner:

195.1.1. if performed as part of his normal duties: within the limits of the remuneration received at his workplace;

195.1.2. if carried out at the request of the prosecuting authority: from the state budget of the Azerbaijan Republic, agreed with the prosecuting authority within the limits set by the appropriate executive authority of the Azerbaijan Republic;

195.1.3. if performed on the basis of an agreement with the defence: according to the amount agreed with the defence.

195.2. In the circumstances described in Article 195.1.2 of this Code, payment shall be made by decision of the prosecuting authority after presentation of an invoice by the interpreter, specialist or expert.

Article 196. Reimbursement of the expenses incurred by those participating in criminal proceedings

196.1. During criminal proceedings, the victim, the civil party, their legal representatives, the defence counsel who provides legal assistance free of charge to the suspect or accused and circumstantial witnesses, interpreters, specialists, experts and witnesses shall be reimbursed for the following expenses:

196.1.1. travel expenses relating to the summons from the prosecuting authority by rail, car (excluding taxis) or other means of transport, and by air subject to the consent of the prosecuting authority;

196.1.2. subsistence expenses if they are obliged to be absent from their permanent address, at the request of the prosecuting authority, unless these costs are paid by the administration, institution, organisation or employer concerned;

196.1.3. except where they retain their monthly wage from their administration, institution, organisation or employer, the average monthly wage for the whole period of their participation in the criminal proceedings at the request of the prosecuting authority;

196.1.4. expenses for repairs to or replacement of property damaged or lost while they are participating in investigative or other procedures at the request of the prosecuting authority.

196.2. State bodies, administrative departments, institutions and organisations shall hold the average monthly wage payable to the victim, the civil party, their legal representatives and the circumstantial witnesses, interpreters, experts and witnesses for the period of their participation in the criminal proceedings, at the request of the prosecuting authority.

196.3. The cost of chemical reagents and other materials used in connection with the work done by a specialist or expert, as well as the cost of the use of equipment and public facilities, shall be reimbursed.

196.4. The costs incurred during criminal proceedings shall be paid by the prosecuting authority, on the authority's own initiative or by decision of the authority on an application by those persons specified in Article 196.1 of this Code, according to the amount determined by the legislation of the Azerbaijan Republic. The costs concerned shall be paid from the state budget of the Azerbaijan Republic or by the person (persons) found guilty as charged.

Chapter XXII

COURT EXPENDITURE

Article 197. Court expenditure

197.1. Court expenditure shall comprise:

197.1.1. the sum paid in compensation for the damage caused to the victim by the act provided for in criminal law;

197.1.2. the sum paid to the victim, the civil party, their legal representatives, the suspect or accused, the defence counsel who provides legal assistance free of charge and the interpreter for their attendance and daily expenses;

197.1.3. the sum paid to jurors for their participation in the hearing of the case;

197.1.4. the sum due as a fee to the specialist, expert and interpreter;

197.1.5. the sum due to the defence counsel appointed by the prosecuting authority if legal assistance is provided to the suspect or accused free of charge;

197.1.6. the expenses incurred in holding, transporting and examining the material evidence;

197.1.7. the sum spent in payment for items damaged or destroyed during the conduct of investigative experiments and expert examination in the context of the criminal case and for other expenses of a similar kind;

197.1.8. the sum spent on other measures necessary to the conduct of the criminal case or to proceedings on other prosecution material.

197.2. Unless otherwise provided by this Code, court expenditure shall be paid from the state budget of the Azerbaijan Republic.

Article 198. Collection of court expenditure

198.1. The court may order a convicted person to pay the expenditure listed in Articles 197.1.1, 197.1.2, 197.1.4, and 197.1.6-197.1.8 of this Code, and the sum concerned may be collected from him by court decision and paid to the state or paid into the account of the individual or legal entity that paid the item of expenditure concerned.

198.2. If a convicted person is not financially able to pay the court expenditure, or if the payment of the court expenditure by the person responsible would cause great damage to his financial position, the court may partially or completely exempt him from collection of the court expenditure.

198.3. If several persons are convicted on prosecution, the court expenditure shall be collected from each of them according to the shares determined by the court, in the light of their degree of guilt, the severity of the sentence imposed on them and their financial position.

198.4. If, when an under-age person is sentenced, his offence is proven to have been committed because of insufficient attention by his legal representatives to his behaviour, the court may order them to pay the expenditure.

198.5. If a person prosecuted under private charges is acquitted, or if the person bringing a private prosecution refuses to uphold the charge in court, the court shall have the right to order the person bringing the private prosecution to pay part or all of the expenditure provided for in Article 198.1 of this Code. If the prosecution is discontinued as a result of a friendly settlement between the person prosecuted under private charges and the person bringing a private prosecution, the court shall have the right to order the payment of part or all of its expenditure by one or both parties to the criminal proceedings.

198.6. If a convicted person dies before the judgment becomes final, his heirs shall not bear responsibility for paying for the court expenditure.

SECTION SIX

CONFIDENTIALITY AND TIME LIMITS DURING CRIMINAL PROCEEDINGS

Chapter XXIII

THE PRESERVATION OF CONFIDENTIALITY DURING CRIMINAL PROCEEDINGS

Article 199. The preservation of personal and family secrets

199.1. During criminal proceedings, measures shall be taken under this Code and other laws of the Azerbaijan Republic to protect information which constitutes personal and family secrets.

199.2. In the course of procedural activities, it shall be prohibited to unnecessarily collect, disseminate or use information relating to the private life of any person and other information of a personal nature which is intended to be kept secret. At the request of the investigator, prosecutor or court, the participants in investigative and court procedures shall be under an obligation not to disseminate such information and shall give a written undertaking to this effect.

199.3. If the prosecuting authority proposes to any person that he give or submit information concerning his private life in pursuance of the relevant court decision, he shall have the right to refuse to divulge it unless he is sure of the need to collect this information for the purposes of the ongoing criminal case. If the prosecuting authority requests the person to give or submit information concerning his own or another person's private life, on the grounds that it is essential, the authority shall include observations confirming the need for this information in the record of the interview or other investigative procedure.

199.4. Evidence which discloses personal or family secrets shall be examined by the court in camera.

199.5. Damage caused to any person as a result of an infringement of the inviolability of private life or the dissemination of personal or family secrets shall give rise to compensation under the legislation of the Azerbaijan Republic.

Article 200. The preservation of state secrets

200.1. During criminal proceedings, measures shall be taken under this Code and other laws of the Azerbaijan Republic in order to protect information constituting state secrets.

200.2. If the prosecuting authority proposes to any person that he give or submit information which comprises state secrets in pursuance of the relevant court decision, this person shall be entitled to refuse to divulge it unless he is sure of the need to collect this information for the purposes of the ongoing criminal case. If the prosecuting authority requests the person to give or submit information which contains state secrets on the grounds that it is essential, the authority shall include observations confirming the need for this information in the record of the interview or other investigative procedure.

200.3. If the prosecuting authority does not note that this is prohibited in the record of the interview or other investigative procedure, the state employee concerned shall immediately inform the head of the relevant state body in writing about his testimony concerning the information entrusted to him which constitutes a state secret.

200.4. The conduct of criminal cases connected with information comprising state secrets shall be placed in the hands of investigators, prosecutors or judges who have given written undertakings not to divulge this type of information. Undertakings not to divulge information constituting state secrets shall be given before the start of the court's consideration of a criminal case involving such information, an obligation also extending to jurors. Any juror who refuses to give such an undertaking shall be released from participation in the court's consideration of the criminal case. Evidence which reveals state secrets shall be examined by the court in camera.

200.5. Anyone else who submits or otherwise indicates that he wishes to acquaint himself with information which constitutes a state secret for the purposes of the criminal case, shall give an undertaking in advance not to disseminate this information. If the defence counsel and the other representative, with the exception of the legal representative, refuses to give this undertaking, he shall be deprived of the right to participate in the criminal proceedings, and the remaining persons shall not be given the information constituting a state secret. The obligation not to disseminate state secrets shall not prevent a party to the criminal proceedings from requesting that the information constituting a state secret be examined by the court in camera.

Article 201. The preservation of professional and trade secrets

201.1. During criminal proceedings measures shall be taken under this Code and other legislation of the Azerbaijan Republic to protect information which constitutes professional and trade secrets.

201.2. During the conduct of procedural activities, information which reveals professional and trade secrets may not be collected, used or disseminated unless this is necessary. At the request of the investigator, prosecutor or court, the participants in investigative and court procedures shall not disseminate this information and shall give an undertaking to this effect.

201.3. If the prosecuting authority proposes to any person that he give or submit information which contains professional and trade secrets in pursuance of the relevant court decision, this person shall be entitled to refuse to divulge it unless he is sure of the need to collect this information for the purposes of the ongoing criminal case.

201.4. If the prosecuting authority requests the person to give or submit information which contains professional and trade secrets on the grounds that it is essential, the authority shall include observations confirming the need for this information in the record of the interview or other investigative procedure.

201.5. If the prosecuting authority does not note that this is prohibited in the record of the interview or other investigative procedure, the state employee concerned or employee of a property-owning institution or organisation shall immediately inform the management of the relevant body, institution or organisation in writing about his testimony concerning the information entrusted to him which constitutes a professional or trade secret.

201.6. Evidence which reveals professional and trade secrets shall be examined by the court in camera.

Chapter XXIV

TIME LIMITS IN CRIMINAL PROCEEDINGS

Article 202. The calculation of periods and time limits

202.1. During criminal proceedings the periods and time limits for which this Code provides shall be calculated in terms of hours, days, months and years.

202.2. In calculating periods for the purposes of criminal proceedings, the hour and day marking the start of the period shall not be taken into account.

202.3. During criminal proceedings, when periods are calculated in days, the period shall start at midnight on the first day and end at midnight on the last day. When periods are calculated in months and years, the period shall end on the relevant day of the last month, but if that month does not contain the relevant date, it shall end on the last day of the month. If the last day of the period is not a working day, the first working day thereafter shall be considered to be the last day of the period.

202.4. During criminal proceedings, if a complaint or another document is sent by post, or in the case of an arrested person or a person placed in a medical institution, given to the authority in charge of the remand facility or the medical institution respectively, before the expiry of the set time limit, the time limit shall not be considered to have expired. The date of postage shall be determined by the postmark, and the date of delivery to the authority in charge of the remand facility or medical institution shall be determined by the records of the institution's registry or officials.

202.5. During criminal proceedings, officials' compliance with the set time limits shall be confirmed by appropriate notes in the procedural documents. The receipt of the required documents by persons participating in criminal proceedings shall be confirmed by their acknowledgement of receipt, which shall be added to the case file.

Article 203. Results of failure to comply with set time limits and rules for the reinstatement of time limits

203.1. Procedures carried out during criminal proceedings after the expiry of the time limit shall be considered invalid if the time limit is not reinstated.

203.2. If the time limit for lodging a complaint against the prosecuting authority has expired, a stay of execution may be granted on the application or at the request of the person concerned until the matter of the reinstatement of the time limit in question is settled.

203.3. A time limit exceeded during criminal proceedings for good reason shall be reinstated by decision of the prosecuting authority on the application or at the request of the person concerned. Unless otherwise specified in the prosecuting authority's decision, the time limit shall be reinstated only for the person in question, and not for others.

203.4. A complaint against the investigating or preliminary investigation authority's refusal to reinstate the time limit may be submitted to the prosecutor. No complaints against the court's refusal to reinstate the time limit after it has been exceeded may be made to the court of appeal. The court of appeal shall have the right, in accordance with its powers, to reinstate a time limit for appeal which has been exceeded. The prolongation or reinstatement of other procedural time periods shall be resolved in accordance with the provisions of this Code.

SPECIAL PART

SECTION SEVEN

PRE-TRIAL CONDUCT OF THE PROSECUTION

Chapter XXV

COMMENCEMENT OF CRIMINAL PROCEEDINGS

Article 204. Reporting by individuals of offences committed or planned

204.1. Information provided by an individual concerning an offence committed or planned, which is deemed to constitute grounds for instituting criminal proceedings, may be in written or verbal form.

204.2. Verbal information about an offence committed or is being planned, obtained during an investigation or a court hearing, shall be noted in the record of the investigative procedure or the court hearing as the case may be. In other cases, a separate record shall be drawn up. The family name, first name, father's name, date of birth, home or work address of the informant, his connection with the offence, the source of the information, as well as information about the identity card, passport or other documents presented as confirmation of the

informant's identity shall be noted in the record. If the informant is unable to present an identity card, passport or other documents confirming his or her identity, other measures shall be taken to verify it.

204.3. If the informant is 16 (sixteen) or over, he or she shall be informed in writing about the liability incurred by persons intentionally making false statements and shall sign to acknowledge receipt of this information.

204.4. A statement about the offence committed or planned, and about the circumstances in which it came to the informant's knowledge, shall be noted in the record in the first person.

204.5. The record shall be signed by the informant and by the official taking his statement.

204.6. Statements which are unsigned or signed with a false signature or recorded on behalf of a fictitious person, or any other anonymous information about an offence committed or planned, may not constitute grounds for instituting criminal proceedings.

204.7. The provisions of paragraphs 204.1, 204.4 and 204.5 of this Code shall also apply in cases where a perpetrator comes forward voluntarily to make a confession.

Article 205. Reporting by legal entities (or officials) of offences committed or planned

205.1. Information provided by a legal entity (or official) concerning an offence committed or planned, which is deemed to constitute grounds for instituting criminal proceedings, shall be in the form of a letter, a confirmed telegram, telephone message, radio message, telex or other approved form of communication.

205.2. Documents confirming the commission of the offence shall be attached to the letter sent by the legal entity (or official) in order to report the offence.

205.3. A letter reporting an offence committed or planned shall state the full name of the legal entity, or the family name, first name and father's name of the official, the official's work address, his connection with the offence and the source of the information, as well as information about documents attached to the letter.

205.4. Statements which are unsigned or signed with a false signature or recorded on behalf of a fictitious legal entity (or official), or other anonymous information about an offence committed or planned, may not constitute grounds for instituting criminal proceedings.

Article 206. Media information about offences committed or planned

206.1. Information held by the media concerning an offence committed or planned, which is deemed to constitute grounds for instituting criminal proceedings, shall be sent to the prosecuting authorities after its disclosure in the press or on radio or television.

206.2. Correspondence addressed to the media about an offence committed or planned, which has not been published, shall be sent by media officials to the prosecuting authorities in accordance with Article 205 of this Code.

206.3. Media officials who have published or sent to the authorities information about an offence committed or planned and authors of such information shall submit the documents in their possession confirming the information to the preliminary investigator, the investigator, the prosecutor in charge of the procedural aspects of the investigation or the court.

Article 207. Rules governing examination of information about an offence committed or planned

207.1. The preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation shall fulfil the following duties:

207.1.1. register immediately and examine any information received from individuals or legal entities about an offence committed or planned, and information within the investigating authority's jurisdiction which has been published in the media and submitted together with confirming documents;

207.1.2. when necessary, within 3 (three) days of receiving the information (excluding information about obvious offences), or in exceptional cases not more than 7 (seven) days, verify that there is sufficient evidence to institute criminal proceedings;

207.1.3. decide whether or not to proceed with the case, depending on the results of the examination (or verification) of the information concerning the offence committed or planned.

207.2. The preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation examining information about offences subject to a semi-public prosecution may carry out the verification if a complaint has been lodged by the victim of the offence. If there is no such complaint, information provided by other persons about an offence subject to a semi-public prosecution shall not be taken into consideration by the preliminary investigator or investigator. The information may be examined by a prosecutor in the cases provided for in Article 37.5 of this Code.

207.3. When examining information about an offence committed or planned, the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation may not verify the activities of any legal entity. Where it is necessary to carry out such a verification, the preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation shall:

207.3.1. apply to the appropriate state authority or audit organisation to have it appoint a specialist to verify the activity of the legal entity;

207.3.2. decide whether or not to proceed with the case on the basis of the verification carried out by the specialist appointed by the appropriate state authority or audit organisation.

207.4. On examining information concerning an offence committed or planned, the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation may request additional documents from the informants and explanations from them and other persons, and examine the scene of the incident. Apart from examination of the scene, performance of other investigative procedures and implementation of coercive procedural measures shall be prohibited before criminal proceedings have commenced.

207.5. In all cases, on receipt of information about an offence committed or planned, the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation shall take one of the following decisions:

207.5.1. to commence criminal proceedings;

207.5.2. not to proceed with the case;

207.5.3. to send the information to the authority in charge of the investigation;

207.5.4. to send information on an offence subject to a semi-public prosecution to the relevant court.

207.6. Except in the case provided for in Article 207.5.4 of this Code, on receiving information about an offence committed or planned, a court shall immediately send all the information in its possession to the prosecutor in charge of the procedural aspects of the investigation so that he may examine it.

207.7. The rules governing investigation of complaints concerning obvious offences which do not pose a major public threat are laid down in Articles 293-297 of this Code.

Article 208. Discovery by the prosecuting authority of information about an offence committed or planned

208.0. Where information about an offence committed or planned is discovered directly by the preliminary investigator, the investigator or the prosecutor, proceedings shall be instituted in the following cases:

208.0.1. where the preliminary investigator, the investigator or the prosecutor detects circumstances showing that an offence has been committed or, immediately after the commission of an offence, discovers evidence and results of the offence;

208.0.2. where a preliminary investigator receives information about an offence from officers of the preliminary investigating authority conducting a search operation or while performing his duties in accordance with Article 86 of this Code during the investigation of another offence;

208.0.3. where an investigator receives information about an offence while performing his duties in accordance with Article 85 of this Code during the investigation of another offence;

208.0.4. where a prosecutor receives information about an offence during the investigation of another offence or during court proceedings, in accordance with Article 84 of this Code or while performing his duties under the legislation of the Azerbaijan Republic;

208.0.5. where a court receives information about an offence while conducting trial proceedings..

Article 209. Immediate commencement of criminal proceedings

209.1. Where there are grounds provided for in this Code, the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation shall in all cases immediately institute criminal proceedings.

209.2. The prosecutor in charge of the procedural aspects of an investigation shall also institute criminal proceedings on the basis of the known facts in the following circumstances:

209.2.1. where a corpse is found with evidence to indicate murder;

209.2.2. on discovery of an unidentified corpse, parts of a human body or their place of burial;

209.2.3. where there are signs of mass death, disease or poisoning;

209.2.4. where a serious explosion or fire has occurred in a public place, on private premises or in a building used by state authorities or organisations;

209.2.5. on discovery of firearms, ammunition, explosives, radioactive materials, or poisons;

209.2.6. where there are signs that a person has been kidnapped or taken hostage; or where there is the suspicion of murder of a missing person but no information;

209.2.7. where a person is deprived of liberty illegally;

209.2.8. where historical or cultural monuments or graves have been desecrated;

209.2.9. in the event of an armed uprising or coup d'Etat;

209.2.10. where there is an open attempt to change the constitutional structure of the Azerbaijan Republic by force;

209.2.11. in the event of mass disorder;

209.2.12. where sabotage or acts of terrorism take place;

209.2.13. where an attempt is made on the life of the President of the Azerbaijan Republic, a member of the Parliament of the Azerbaijan Republic or a member of the Cabinet of the Azerbaijan Republic;

209.2.14. in cases of contempt of court;

209.2.15. where an attempt is made on the life of a judge, prosecutor, investigator, preliminary investigator, counsel or expert, or of a victim or witness in a criminal case under investigation by the investigating or preliminary investigating authority or before a court;

209.2.16. where a person serving a sentence or detained on remand escapes from prison or from detention.

Article 210. Rules governing the commencement of criminal proceedings

210.1. In the cases specified in Article 209 of this Code the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation shall decide, in accordance with this powers, to institute criminal proceedings.

210.2. The following shall be stated in the decision to institute criminal proceedings:

210.2.1. the reasons, grounds or facts on which the criminal case is based;

210.2.2. the article of criminal law establishing the offence;

210.2.3. acceptance or transfer of responsibility for conducting the investigation after criminal proceedings have been instituted.

210.3. If the victim of the offence is known when the criminal proceedings are instituted, he shall be recognised as a victim at the commencement of the proceedings, and where a civil claim has been lodged, he shall also be recognised as a civil party in the same decision.

210.4. A copy of the decision to institute criminal proceedings shall be sent by the person who takes this decision, within 24 hours, to any natural or legal entity or official who has given information about the offence as well as to the prosecutor in charge of the procedural aspects of the investigation.

210.5. At the commencement of the proceedings measures shall be taken to prevent the continuation or repetition of offences and to preserve the evidence of the offence and any objects or documents which may be of significance to the case.

210.6. After the commencement of criminal proceedings:

210.6.1. the prosecutor in charge of the procedural aspects of the investigation shall transfer the case-file to the investigator so he may take the case under his jurisdiction and conduct the investigation or shall take the case under his own jurisdiction and conduct the investigation himself;

210.6.2. the investigator informing the prosecutor in charge of the procedural aspects of the investigation of a decision to institute proceedings shall conduct the investigation into the criminal case;

210.6.3. the preliminary investigator informing the prosecutor in charge of the procedural aspects of the investigation of a decision to institute proceedings shall conduct the preliminary investigation into the criminal case.

Article 211. Joinder and division of criminal cases

211.1. Criminal cases shall be joined in accordance with the provisions of Article 49 of this Code.

211.2. The investigator or the prosecutor in charge of the procedural aspects of the investigation shall separate material concerning another criminal case from the material concerning a criminal case under his jurisdiction with a view to its transfer to another jurisdiction in any of the following cases:

211.2.1. if, when the accused is charged with the offence, another offence is detected, which is unconnected with the first and was committed not by the accused or with his participation, but by other known or unknown persons;

211.2.2. if the initial criminal case has to be suspended in respect of certain offences under investigation;

211.2.3. if the initial criminal case has to be suspended with regard to one group of accused persons, but not in respect of another group of accused persons;

211.2.4. if persons under 16 (sixteen) are among the accused in the initial criminal case (if division of jurisdiction is possible);

211.2.5. if grounds for hearing the case in camera are allowed in respect of one accused person but not another;

211.2.6. if the size of the criminal case is such as to prevent the protection of the rights and legal interests of those participating in the case and unacceptably delay the investigation and the transfer of the case to the court.

211.3. Even where one or more of the conditions set out in Article 211.2 of this Code are fulfilled, if all the circumstances connected with the prosecution cannot be investigated thoroughly, completely, objectively and in time in the event of division of the criminal case, a separate case shall not be created.

211.4. In the decision to divide a criminal case the following shall be stated:

211.4.1. the grounds for the division of the criminal case;

211.4.2. events and persons causing the division of the criminal case;

211.4.3. the article of criminal law establishing the offence giving rise to division of the criminal case;

211.4.4. the decision concerning the conduct of the further investigation of the criminal case and acceptance of responsibility for it.

211.5. A list of the material included in the case-file and copies or originals of the decisions, records, documents and material evidence in the file shall be added to the decision to divide the criminal case.

211.6. The first original of the decision to divide the criminal case and the list of material included in the case-file shall be added to the file on the initial case; the second original shall be added to the file on the divided case. A copy of the decision to divide the criminal case shall be sent to the prosecutor in charge of the procedural aspects of the investigation within 24 hours.

211.7. The defendant in the initial case, his legal representative and counsel and, if their legal interests are affected, the victim, civil party, defendant to the civil claim and their representatives shall be informed of the division of the case and the further steps to be taken.

Article 212. Decision not to proceed with a case

212.1. The preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation shall decide not to proceed with a case if the reasons for doing so are illegal or if there are no grounds to institute criminal proceedings.

212.2. A copy of the decision not to proceed with the criminal case shall be sent to the individual, legal entity or official who gave information about the offence committed or planned.

212.3. A complaint about a decision by a preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation not to proceed with a case may be lodged with the prosecutor in charge of the procedural aspects of the investigation, the senior prosecutor or the court, as appropriate.

212.4. The following action shall be taken in connection with a complaint lodged against a decision by the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation not to proceed with a criminal case:

212.4.1. the prosecutor in charge of the procedural aspects of the investigation or the senior prosecutor may cancel the decision, decide to institute proceedings and transmit this decision to the investigator with a view to the conduct of the investigation, or may uphold without change the decision not to proceed with the case;

212.4.2. the court exercising judicial supervision may set aside the decision, draw the attention of the prosecutor in charge of the procedural aspects of the investigation to breaches of the requirements of Articles 207, 209 and 210 of this Code, and rule that those requirements must be met, or it may uphold without change the decision not to proceed with the case.

Article 213. Transmission of information about an offence to the relevant investigator or court

213.1. A preliminary investigator or investigator may send information concerning an offence committed or planned to the relevant investigating authority, before the commencement of proceedings, in the following circumstances:

213.1.1. if he has no jurisdiction to investigate the case;

213.1.2. if the offence was committed outside his territorial jurisdiction.

213.2. Before the commencement of proceedings, the prosecutor in charge of the procedural aspects of the investigation may send information concerning an offence committed or planned to the relevant investigating authority only if the offence was committed outside his territorial jurisdiction and, with a view to deciding whether to commence proceedings, it is necessary to make verifications as to the scene of the offence.

213.3. A preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation shall refer complaints by the victims of offences covered by a private prosecution to the relevant court of first instance.

213.4. A preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation who, as the relevant investigating authority, receives information about an offence committed or planned, shall take the measures provided for in Articles 207, 208 and 210 of this Code, in accordance with his powers.

Chapter XXVI

GENERAL CONDUCT OF THE INVESTIGATION

Article 214. Conduct of the preliminary investigation into a criminal case

214.1. The preliminary investigation, as part of the investigation, shall take the form of:

214.1.1. conduct of investigative procedures which cannot be delayed in criminal cases subject to mandatory investigation;

214.1.2. simplified pre-trial proceedings concerning certain obvious offences which do not pose a major public threat.

214.2. The preliminary investigation of a criminal case shall be conducted by the following investigative authorities and persons:

214.2.1. by preliminary investigators belonging to the relevant executive authorities (investigating authorities) of the Azerbaijan Republic where a criminal case comes within the jurisdiction of the investigators belonging to the same executive authorities of the Azerbaijan Republic;

214.2.2. by commanders of military units, heads of the military administration, governors of prisons and heads of detention facilities, captains of ships at sea and other authorised people exercising the powers of a preliminary investigator, where an offence was committed on the territory of the military unit, military administration, prison or detention facility or on board ship; and in cases which are under the authority of the security bodies of the military units and military departments which carry out counterintelligence activity, by the investigators of the appropriate executive authorities.

214.3. A preliminary investigation in the form of investigative procedures which cannot be delayed shall be carried out with the aim of gathering evidence of the offence and formalising it. When the preliminary investigation is carried out in this form, the preliminary investigator shall in accordance with Articles 147, 148, 153, 207, 209, 210, 226-232, 234, 236, 238-247, 264, 268-270 and 273-276 of this Code:

214.3.1. institute criminal proceedings and inform the prosecutor in charge of the procedural aspects of the investigation without delay;

214.3.2. conduct investigative procedures such as detaining any suspect, questioning suspects, victims, witnesses, civil parties and defendants to civil claims, and conducting search operations, searches of persons (body search), interviews and seizure of property;

214.3.3. not later than 10 (ten) days after the commencement of proceedings, transfer the case to the investigating authority for further investigation;

214.3.4. after 10 (ten) days have elapsed following the commencement of proceedings, conduct specific investigative procedures or search operations on the instructions of the investigator or the prosecutor carrying out the investigation;

214.3.5. if 10 (ten) days after the commencement of proceedings the case remains unsolved, take measures to identify, find, detain and hand over the person who committed the offence to the investigator.

214.4. A preliminary investigation in the form of simplified pre-trial proceedings shall be conducted in respect of obvious offences covered by Articles 127.1, 128-132, 174-176, 177.1, 186.1, 187.1, 187.2, 196.1, 197.1 and 201.1 of the Criminal Code of the Azerbaijan Republic, which do not pose a major public threat.

214.5. The preliminary investigation, in the form of simplified pre-trial proceedings, of offences which do not pose a major public threat shall be carried out in accordance with Articles 293-297 of this Code.

214.6. While carrying out the investigative procedures within his authority, the preliminary investigator, regardless of the form of the preliminary investigation, shall enjoy the rights and perform the duties of

investigators, in accordance with the requirements of the articles of this Code governing the conduct of investigative procedures.

Article 215. Conduct of the investigation into a criminal case

215.1. Investigation shall be obligatory in all cases, except where the preliminary investigation takes the form of simplified pre-trial proceedings in respect of offences which do not pose a major public threat.

215.2. The investigation of a criminal case shall be carried out by the prosecutor's office or the relevant executive authority of the Azerbaijan Republic.

215.3. The investigation shall be carried out by the prosecutor's office in the following cases:

215.3.1. cases involving offences covered by Articles 100-113, 120-125, 126.3, 135-138, 145, 146, 149, 154-164, 165.2, 166.2, 167, 168, 179, 190, 191, 195, 202, 203, 208, 210-212, 222, 223, 262, 268, 286-288, 290-302, 304, 307-315, 317, 321 and 323 of the Criminal Code of the Azerbaijan Republic;

215.3.2. cases involving charges of abuse of authority by the President of the Azerbaijan Republic, members of parliament, the prime minister, judges, employees of the prosecutor's office, employees of the diplomatic service of the Azerbaijan Republic in foreign countries and of foreign countries' diplomatic representations in the Azerbaijan Republic and employees of the judicial, police, security, tax and customs authorities.

215.4. The investigation of cases concerning war crimes, military service or offences committed by military personnel shall be conducted by the military prosecutor's office (if someone who is not military personnel is an accessory to the offence, the investigation in respect of that person shall also be conducted by the military prosecutor's office).

215.5. The preliminary investigation of criminal cases other than those provided for in Articles 215.3 and 215.4 of this Code shall be conducted by the relevant executive authority of the Azerbaijan Republic.

215.6. If in the course of the pre-trial proceedings it is established that the case concerns several investigative authorities, the following measures shall be taken by reasoned decision of the Principal Public Prosecutor of the Azerbaijan Republic or one of his deputies in order to ensure that the investigation is conducted thoroughly, completely and objectively:

215.6.1. where the criminal case is a matter for the prosecutor's office or the relevant executive authority, a joint investigating team shall be set up under the leadership of the prosecutor or an investigator from the prosecutor's office;

215.6.2. where the criminal case is a matter for several executive authorities of the Azerbaijan Republic, depending on the seriousness of the crime, a joint investigating team involving investigators from those authorities shall be set up, and a head of team shall be appointed.

215.7. Transfer of the case from the investigating authority concerned to another investigating authority, with a view to ensuring that the investigation of the case is conducted thoroughly, completely and objectively, shall be possible by reasoned decision of the Principal Public Prosecutor of the Azerbaijan Republic in the following exceptional cases:

215.7.1. if it is established that the offence was concealed by the investigating authority concerned (or if the necessary measures were not taken by the head of the appropriate executive authority of the Azerbaijan Republic, including failure to remove the circumstances in question and to charge the accused);

215.7.2. if it is established that during the investigation of the case the accused was arrested unlawfully or tortured by the investigating authority concerned;

215.7.3. if it is established that the accused was denied the right to counsel, as provided for in Article 92.3 of this Code, by the investigating authority concerned;

215.7.4. if the head of the relevant executive authority of the Azerbaijan Republic in charge of investigating the criminal case, or one of his close relatives, is victim, suspect or accused, civil party or defendant to the civil claim in the criminal case.

215.8. If the Principal Public Prosecutor of the Azerbaijan Republic himself or one of his close relatives is victim, suspect or accused, civil party or defendant to the civil claim, the case which the prosecutor's office has

jurisdiction to investigate shall be transferred to another investigating authority by reasoned decision of the first Deputy Principal Public Prosecutor of the Azerbaijan Republic.

Article 216. Place where the investigation is conducted

216.1. The preliminary investigation shall be carried out in the place (administrative territorial unit) where the offence was committed.

216.2. To ensure that the pre-trial proceedings are conducted thoroughly, completely, objectively and in good time, the investigation may also, by decision of the Principal Public Prosecutor of the Azerbaijan Republic, be carried out in the area where the offence became known and where the suspect or accused and the majority of the witnesses are to be found.

216.3. Where it is necessary to conduct particular investigative procedures in another area during the investigation, the investigator shall be entitled:

216.3.1. at his discretion, to commission the conduct of these procedures by a preliminary investigator or investigator in the area where the suspect, the accused or the majority of the witnesses are to be found;

216.3.2. in cases which do not admit delay, to conduct the investigation in the area where the suspect, the accused or the majority of the witnesses are to be found, with the consent of the prosecutor in charge of the procedural aspects of the investigation in that area.

Article 217. The start of the investigation

217.1. The investigation or the preliminary investigation (including all investigative procedures except examination of the scene of the offence) shall take place only after a decision to commence criminal proceedings has been made.

217.2. After the commencement of criminal proceedings, the preliminary investigator or investigator, by virtue of the powers conferred on him in Articles 85 and 86 of this Code or pursuant to the instructions of the prosecutor in charge of the procedural aspects of the investigation, shall take the case under his jurisdiction and issue the relevant decision to start the investigation of the case. If criminal proceedings are instituted by the preliminary investigator or investigator assuming jurisdiction, he shall issue a single decision to commence proceedings and take the case under his jurisdiction.

217.3. After the decision provided for in Article 217.1 of this Code has been issued, a copy of it shall be sent to the prosecutor in charge of the procedural aspects of the investigation within 24 hours.

Article 218. Time limits for conducting the investigation

218.1. The preliminary investigation shall in all cases be completed no more than 10 (ten) days after the commencement of criminal proceedings.

218.2. The investigation of a criminal case shall be completed within the following time limits:

218.2.1. in the cases of offences which do not pose a major public threat, no later than 2 (two) months after the commencement of criminal proceedings;

218.2.2. for minor offences, no later than 3 (three) months after the commencement of criminal proceedings;

218.2.3. for serious offences, no later than 3 (three) months after the commencement of criminal proceedings;

218.2.4. for very serious offences, no later than 4 (four) months after the commencement of criminal proceedings.

218.3. The period of the investigation shall be calculated from the date on which proceedings commence to the date on which the case is sent to the court or a decision is made to discontinue it.

218.4. The time necessary for the accused and his defence counsel to take cognisance of the case-file shall not be included in the period of the investigation. If the accused and his defence counsel prolong this period intentionally and without good reason, the prosecutor in charge of the procedural aspects of the investigation may, at the investigator's request, decide to impose a time limit.

218.5. The period of the investigation shall not include time during which the investigation was suspended on the grounds provided for in Article 53.1 of this Code.

218.6. Where justified by complexity of the criminal case, the time limits for conducting the investigation laid down in Article 218.2 of this Code may be prolonged, on a reasoned application by the investigator and on the basis of submissions by the prosecutor in charge of the procedural aspects of the investigation, by decision of the Military Prosecutor of the Azerbaijan Republic, the Prosecutor of Baku, the Prosecutor of the Nakhchivan Autonomous Republic or the Deputy Principal Public Prosecutor of the Azerbaijan Republic as follows:

218.6.1. for no longer than 2 (two) months in the case of offences which do not pose a major public threat;

218.6.2. for no longer than 2 (two) months for minor offences;

218.6.3. for no longer than 3 (three) months for serious offences;

218.6.4. for no longer than 4 (four) months for very serious offences.

218.7. In connection with an especially complex criminal case coming under Article 218.6 of this Code, the prolonged time limit for conducting the investigation decided by a senior prosecutor may be further extended, on a reasoned application by the investigator and on the basis of submissions by the prosecutor in charge of the procedural aspects of the investigation, endorsed by the Military Prosecutor of the Azerbaijan Republic, the Prosecutor of Baku, the Prosecutor of the Nakhchivan Autonomous Republic, by decision of the Deputy Principal Public Prosecutor of the Azerbaijan Republic, as follows:

218.7.1. for no longer than 1 (one) month in the case of offences which do not pose a major public threat;

218.7.2. for no longer than 2 (two) months for minor offences;

218.7.3. for no longer than 3 (three) months for serious offences;

218.7.4. for no longer than 4 (four) months for very serious offences.

218.8. In connection with an exceptionally complex criminal case coming under Article 218.7 of this Code, the prolonged time limit for conducting the investigation decided by a senior prosecutor may be further extended, on a reasoned application by the investigator and on the basis of submissions by the prosecutor in charge of the procedural aspects of the investigation, endorsed by the Military Prosecutor of the Azerbaijan Republic, the Prosecutor of Baku, the Prosecutor of the Nakhchivan Autonomous Republic or the Deputy Principal Public Prosecutor of the Azerbaijan Republic, by decision of the Principal Public Prosecutor of the Azerbaijan Republic, as follows:

218.8.1. for no longer than 1 (one) month in the case of offences which do not pose a major public threat;

218.8.2. for no longer than 2 (two) months for minor offences;

218.8.3. for no longer than 3 (three) months for serious offences;

218.8.4. for no longer than 6 (six) months for very serious offences.

218.9. The reasoned application by the investigator and the submissions by the prosecutor in charge of the procedural aspects of the investigation endorsed by the appropriate prosecutor, seeking an extension of the time limit for completing the investigation, shall be submitted to the senior prosecutor no less than 7 (seven) days before the expiry of the initial time limit for completing the investigation. In examining the application for an extension of the time limit for the investigation, the senior prosecutor shall:

218.9.1. verify the lawfulness and validity of the application lodged by the investigator and the submissions made by the lower prosecutor;

218.9.2. assess the measures taken by the investigator and the prosecutor in charge of the procedural aspects of the investigation to guarantee the thorough, complete, objective and timely conduct of the pre-trial proceedings;

218.9.3. make a reasoned decision whether or not to prolong the time limit for the investigation of the case;

218.9.4. take effective measures in accordance with his powers if he finds that the investigation of the criminal case has been conducted in a dilatory manner or has breached the requirements of this Code.

218.10. The investigation of a criminal case solved in compliance with the provisions of paragraphs 218.3-218.9 of this Code shall in all cases be completed within the following time limits:

218.10.1. in the case of an offence which does not pose a major public threat, no longer than 6 (six) months;

218.10.2. in the case of a minor offence, no longer than 9 (nine) months;

218.10.3. in the case of a serious offence, no longer than 12 (twelve) months.

218.10.4. in the case of a very serious offence, no longer than 18 (eighteen) months.

218.11. The time limit for conducting the investigation into an unsolved criminal case may be extended several times by the Chief Prosecutor of the Azerbaijan Republic, until the case is solved in accordance with Articles 218.8 and 218.9 of this Code. After the case has been solved, the time limit for the investigation of the case may be extended only once by the Principal Public Prosecutor of the Azerbaijan Republic, in accordance with Articles 218.8 and 218.9 of this Code.

Article 219. The end of the investigation

219.1. The investigation shall end when it is decided to send the case to court so that the indictment may be drawn up and compulsory measures of a medical nature may be taken, or when it is decided to discontinue the criminal proceedings.

219.2. In criminal cases subject to compulsory investigation, after the performance of investigative procedures which cannot be delayed and in any case within 10 (ten) days of the commencement of criminal proceedings, the preliminary investigator shall transfer the criminal case to the investigator under the terms of the relevant decision. A copy of this decision shall be sent within 24 hours to the prosecutor in charge of the procedural aspects of the investigation. The accused, his legal representative and defence counsel and the victim, civil party, defendant to the civil claim and their representatives who have participated in the initial investigative procedures shall be informed that the case has been transferred to the investigator.

Article 220. Obligation to explain the rights of participants in criminal proceedings and examine their applications

220.1. During the investigation, the preliminary investigator or the investigator shall explain to the suspect, accused, civil party, defendant to the civil claim and their representatives, and any other persons participating in the investigative procedures, their rights and duties and the consequences of any failure to fulfil the duties imposed on them.

220.2. During the investigation the preliminary investigator or the investigator shall examine all applications filed by participants in the criminal proceedings.

220.3. The preliminary investigator or investigator may not, without good reason, refuse written applications by the suspect, accused, civil party, defendant to the civil claim and their representatives concerning the examination of witnesses, the seeking of an expert opinion and the conduct of other investigative procedures, where these are important for investigating all the circumstances connected with the criminal prosecution thoroughly, completely and objectively.

220.4. Verbal or written applications shall be examined no later than within 5 (five) days of their receipt by the preliminary investigator or investigator.

220.5. The preliminary investigator or investigator shall give a reasoned decision about whether to grant an application or reject it completely or partially, and shall immediately send the decision to the applicant..

Article 221. Obligation to detect and remove the circumstances which engendered conditions conducive to the commission of the offence

221.1. During the investigation, the investigator shall determine the circumstances (reasons and conditions) which facilitated the commission of the offence. On determining these circumstances the investigator shall, if necessary, send a recommendation to the legal entity or official concerned to take steps to eliminate the circumstances which engendered conditions conducive to the commission of the offence.

221.2. It shall be obligatory to examine the investigator's recommendation in order to take steps to eliminate the circumstances which engendered conditions conducive to the commission of the offence; the investigator shall be informed of the outcome in writing within one month.

Article 222. Non-disclosure of information about the investigation

222.1. Pre-trial information concerning the investigation of the criminal case may be disseminated only insofar as its disclosure is not counter to the interests of the investigation and does not violate the rights and legal interests of participants in the criminal proceedings.

222.2. Disclosure of information about the investigation shall be possible only with the permission of the person conducting the investigation, the prosecutor in charge of the procedural aspects of the investigation or the court.

222.3. Information about the investigation may be disseminated by participants in the criminal proceedings and journalists only with the permission of the preliminary investigator, the investigator, the prosecutor in charge of the procedural aspects of the investigation or the court, where the disclosure is not counter to the interests of the investigation and does not violate the rights and legal interests of other participants in the criminal proceedings.

222.4. During the preliminary investigation, with the aim of ensuring compliance with the provisions of Articles 222.1-222.3 of this Code, the preliminary investigator or the investigator shall inform in writing the witnesses, victim, civil party, defendant to the civil claim, their representatives, specialists, experts, interpreters, circumstantial witnesses, counsel for the defence and other persons that they are prohibited from disseminating information about the investigation without his permission.

222.5. If any person has suffered non-material or material damage as a result of a violation of his privacy, the preliminary investigator, the investigator, the prosecutor in charge of the procedural aspects of the investigation, the judge, or any person informed of the ban on disseminating the information about the investigation who committed the breach of privacy shall be held liable under the legislation of the Azerbaijan Republic.

Chapter XXVII

CHARGING OF SUSPECTS

Article 223. Grounds and procedure for charging a suspect

223.1. The grounds for preferring charges shall be the totality of the prima facie evidence that the person concerned has committed an offence.

223.2. Where there is evidence provided for in paragraph 223.1 of this Code, the investigator shall give a reasoned decision to prefer charges against the person concerned.

223.3. In the reasoning of the decision to prefer charges, the following shall be stated:

223.3.1. the family name, first name and father's name of the accused and other information of legal significance concerning his identity;

223.3.2. the place and time of the offence, the method and result of its commission, the degree of guilt, the motive for committing the offence and the nature of the charge with substantiating evidence;

223.3.3. in the case of an attempt to commit an offence or of preparations for an offence, the reasons why the offence was not committed;

223.3.4. if the offence was committed by a group of persons, their degree of involvement;

223.3.5. any aggravating circumstances.

223.4. The decision to charge the suspect and the article of criminal law which establishes his responsibility for the offence committed shall be stated in the conclusions section of the decision.

223.5. If the accused is responsible for having committed several offences under various articles of criminal law, the various offences committed shall be stated in the reasoning, and the articles of criminal law establishing responsibility for each of these offences, in the conclusions part.

223.6. A copy of the decision shall be sent to the prosecutor in charge of the procedural aspects of the investigation by the investigator within 24 hours.

Article 224. Procedure governing the formal announcement of the charges

224.1. Within 48 hours of the investigator's decision to prefer charges, and, in any case, not later than the day when the accused gives himself up or is forcibly brought before the prosecuting authority, he shall be formally charged.

224.2. After verifying the identity of the accused, the investigator shall inform him of the decision to prefer charges and explain the nature of the charges. The investigator and the accused shall sign the decision as confirmation of the formal announcement of the charges and its date and time. Defence counsel shall be entitled to attend the formal announcement of the charges.

224.3. After announcing the charges, the investigator shall explain to the accused his rights and duties under Article 91 of this Code. The accused shall be given a copy of the decision to prefer charges and written notification of his rights and duties. The investigator shall draw up a record of the formal announcement of charges, explanation of the accused's rights and duties and transmittal of a copy of the decision. This record shall be signed by the investigator, the accused and defence counsel (if present).

224.4. If the accused or defence counsel refuses to sign the decision or the record, the investigator shall note this in the record, stating the reasons for it, and shall inform the prosecutor in charge of the procedural aspects of the investigation within 24 hours.

Article 225. Altering or adding to the charges

225.1. If during the investigation it becomes necessary to change or to add to the charges, the investigator shall again formally announce the charges in accordance with Articles 223 and 224 of this Code.

225.2. If during the preliminary investigation any part of the charges preferred is not confirmed, the investigator shall discontinue the proceedings in respect of that part of the charges, inform the accused and transmit a copy of the decision to him.

Chapter XXVIII

QUESTIONING AND CONFRONTATION

Article 226. Rules governing summons for questioning

226.1. Witnesses, victims, suspects, the accused and other persons shall be called to appear before the investigator by a summons served on them in person, or in their absence, transmitted via an adult member of their family, a neighbour, a representative of the relevant housing organisation or their place of work or study. Summons may be issued by telegram, telephone or fax.

226.2. The summons shall state who is called to appear, in which procedural capacity, and where and when (date and time). The summons shall indicate that if the person fails to attend, a warrant for him to be brought in by force shall be issued in accordance with Article 178 of this Code.

226.3. Minors shall as a rule be summoned via their legal representatives.

226.4. A suspect or accused who is detained on remand shall be summoned via the authority in charge of the remand facility where he is held.

Article 227. Questioning of witnesses

227.1. A witness may be questioned on any matter of significance to the criminal prosecution, including the identity of the suspect, the accused, the victim, and other witnesses. A witness's lawyer or other representative shall be entitled to participate.

227.2. Witnesses shall be questioned at the place where the investigation is conducted and, where necessary, at their home.

227.3. Witnesses shall be questioned separately from other witnesses. Throughout the questioning the investigator shall take measures to prevent witnesses called in the same case from contacting each other.

227.4. Before questioning witnesses, the investigator shall determine their identity, inform them of the case in which they are called and of their duty to give evidence on all the circumstances of the case known to them and warn them of the criminal responsibility incurred for refusing to testify, evading questioning and intentionally giving false testimony. The witness shall be informed that he is not obliged to testify against himself or close relatives. The investigator shall then establish the witness's relations with the suspect, accused and/or victim and begin the interview.

227.5. The interview shall begin with a proposal to the witness to relate all the circumstances connected with the criminal prosecution, following which he may be questioned.

227.6. The investigator shall be entitled to interview the witness using audio, video, film and other recording techniques.

Article 228. Questioning of under-age witnesses

228.1. If an under-age witness can provide information of significance to the case either verbally or in another form, he may be questioned notwithstanding his age.

228.2. If a witness is under 14 years old, or, at the investigator's discretion, under 16 years old, the interview shall be held with the participation of his teacher or, where necessary, a doctor and the witness's legal representative.

228.3. Before the start of the interview, these persons shall be informed of their right to participate in the interview, to make observations with the agreement of the investigator and to put questions; they shall also be informed of their duties. The investigator may refuse to answer their questions, but shall note them in the record of the interview. All observations made by the witness and those participating in the interview shall be included in the record.

228.4. A witness who is under 16 years old shall merely be informed of his duty to tell the truth. However, he shall not be warned of the criminal responsibility incurred for refusal to testify, evading questioning and intentionally false testimony.

Article 229. Questioning of dumb, deaf or blind witnesses or witnesses who suffer from a serious illness

229.1. An interview with a dumb, deaf or blind witness shall be held with the participation of a person who understands his signs or who can communicate with him in sign language. This person's participation in the interview shall be noted in the record.

229.2. Where a witness suffers from a mental or other serious illness, the interview shall be held with the permission and the participation of a doctor.

229.3. When a dumb, deaf or blind witness or a witness who suffers from a serious illness is questioned, his representative and legal representative shall be entitled to participate.

Article 230. Records of interviews with witnesses

230.1. A record of the interview shall be drawn up, indicating the following:

230.1.1. the date, time and place of the interview;

230.1.2. the investigator's family name, first name, father's name and title;

230.1.3. the witness's family name, first name and father's name and year, month, day and place of birth;

230.1.4. the witness's nationality, education, workplace, occupation or status, address and place of registration;

230.1.5. information about the witness's relations with the suspect, the accused and the victim;

230.1.6. a note that the witness has been informed of his rights, duties and responsibilities;

230.1.7. a note about the circumstances of the interview, especially the use of audio, video, film or other recording equipment during questioning of the witness;

230.1.8. the questions put to the witness and his answers to these questions as well as any statement made by the witness concerning the facts of the case.

230.2. The witness's statements and answers to the questions put shall be recorded in the first person singular and as far as possible verbatim.

230.3. During the interview the witness shall give evidence in the language of the Azerbaijan Republic or in the language he knows. Where the witness does not know the official language or the language in which the preliminary investigation is conducted, an interpreter shall be summoned to participate in the interview. At the witness's request, his statement shall be translated into the language he knows. The record shall be signed by the witness and the interpreter. The record shall be included in the case-file.

230.4. On request, a witness may be given permission to testify in writing, and an appropriate note shall be made in the record of the interview.

230.5. On completing the interview, the investigator shall show the witness the record. The witness shall be entitled to ask the investigator to make additions and amendments to the record of the interview.

230.6. The record of the interview shall be signed by the investigator and the witness at the end of the document and also, by the witness, on each page. If the interview is conducted with the assistance of an interpreter, the interpreter shall sign the record together with the witness, the interpreter signing first.

230.7. If the witness refuses to sign the record, the investigator shall inquire as to the reason for this refusal and endorse the record with his own signature. If the witness cannot sign the record because of illiteracy or physical disabilities, the investigator shall note these circumstances in the record and endorse the record with his own signature.

230.8. The record of the interview shall be included in the case-file. If audio, video, film or other recording techniques are used during the interview, the relevant documents, tapes or other information devices shall be attached to the record.

Article 231. Questioning of victims

An interview of a victim shall be conducted in accordance with the rules laid down in Articles 227-230 of this Code for the questioning of witnesses.

232.1. A suspect shall be interviewed immediately after being taken into custody or after pronouncement of the decision concerning any restrictive measure to be applied in his case.

232.2. A suspect who has been taken into custody or an accused who has been arrested shall be entitled to give evidence in the presence of his defence counsel. When questioning suspects, the investigator shall take steps in advance to guarantee the presence of counsel in the circumstances provided for in Article 92.3 of this Code. In the circumstances provided for in Article 92.12 of this Code, the participation of defence counsel in the interview of the suspect shall be compulsory.

232.3. The investigator shall be entitled to question a suspect using audio, video, film or other recording techniques.

232.4. Before questioning the suspect, the investigator shall inform him of the nature of the offence of which he is suspected as well as of his rights, including the right to refuse to testify and to the assistance of defence counsel.

232.5. The investigator shall begin the interview by suggesting to the suspect that he testify about the suspicions against him and any other circumstances which he deems to be of significance to the case.

Article 233. Questioning of an accused

233.1. The investigator shall interview the accused immediately after preferring charges against him.

233.2. Except in cases which do not admit delay, the interview with the accused may only be held during the daytime.

233.3. The interview with the accused shall be held on the premises where the investigation is being conducted or, if necessary, at the place where the accused is held.

233.4. The accused shall be questioned separately from other persons involved in the case. The investigator shall take measures to prevent the accused from speaking to other persons involved in the case.

233.5. Defence counsel shall be entitled to participate in the interview with the accused. The investigator shall take steps in advance to guarantee the participation of counsel in the circumstances provided for in Article 92.3 of this Code. In the circumstances provided for in Article 92.12 of this Code, the participation of defence counsel in the interview of the accused shall be obligatory.

233.6. Where the accused is a minor or is dumb, deaf, blind or suffers from a serious illness, the interview shall be conducted in accordance with Articles 228.2 and 229 of this Code.

233.7. The accused shall be questioned on the substance of the charge against him as well as on other matters of significance to the case.

233.8. The investigator shall be entitled to question the accused using audio, video, film or other recording techniques.

233.9. Before the start of the interview the investigator shall inform the accused of his rights to the assistance of defence counsel and to refuse to testify.

233.10. Before the interview the investigator shall ascertain whether or not the accused pleads guilty to the charge against him.

233.11. During the interview, the silence of the accused may not be construed as an admission of guilt. The investigator shall suggest to the accused that he testify about the charge against him and any other circumstances which he deems to be of significance to the case.

Article 234. Record of an interview with a suspect or accused

234.1. A record shall be drawn up of every interview with a suspect or accused and shall state the following:

234.1.1. the date, time and place of the interview;

234.1.2. the investigator's family name, first name, father's name, and title;

234.1.3. the family name, first name and father's name of the suspect or the accused as well as his year, month, day and place of birth, his nationality, education, family status, workplace, occupation or status, address and place of registration;

234.1.4. whether the suspect or the accused has been previously convicted or has received state honours, and other information characterising the suspect or the accused and of significance to the case;

234.1.5. a note that the suspect or the accused has been informed of his rights and duties;

234.1.6. the circumstances of the interview with the suspect or the accused, especially the use of audio, video, film or other recording techniques;

234.1.7. the questions put to the suspect or the accused and his answers to these questions as well as any statement about the circumstances of the case made by the suspect or the accused.

234.2. Statements made by the suspect or the accused and his answers to the questions put shall be recorded in the first person singular and as far as possible verbatim.

234.3. The suspect or the accused shall be given the opportunity to make a statement in handwritten form and the investigator shall note this in the record. After the investigator has taken cognisance of the written statement by the suspect or the accused, he may put additional questions to him. These questions and the answers to them shall be included in the record.

234.4. On completing the interview, the investigator shall show the suspect or the accused the record. The suspect or the accused shall be entitled to request additions and amendments to the record. Their inclusion in the record shall be compulsory.

234.5. The record shall be signed by the suspect or the accused and the investigator. If the record drawn up covers several pages, each page shall be signed separately by the suspect or the accused.

234.6. If audio, video, film or other recording techniques are used during the interview, the relevant documents, tapes and other information devices shall be attached to the record.

Article 235. Confrontations

235.1. If there are important contradictions between testimonies, the investigator shall be entitled to organise a confrontation between two persons previously questioned.

235.2. If the confrontation is held with the participation of the suspect or the accused, the investigator shall take steps to guarantee the participation of defence counsel in advance of the performance of this investigative procedure.

235.3. Before the confrontation, it shall be clarified whether the persons being confronted know each other and what their relations are. Witnesses shall be warned of the criminal responsibility incurred for refusing to testify, evading questioning and intentionally giving false testimony. They shall be informed of their right not to testify against themselves or their close relatives.

235.4. The participants in the confrontation shall be asked to speak in turn to clarify the circumstances of the case. The investigator shall then put questions to them. The participants in the confrontation may ask each other questions with the investigator's permission.

235.5. Reading out of statements made by the participants in the confrontation during previous interviews shall be allowed after they have testified during the confrontation.

235.6. In the circumstances provided for in Articles 228 and 229 of this Code, the teacher, doctor, interpreter, legal representative and/or representative of the person being questioned may participate in the confrontation.

235.7. The investigator shall be entitled to organise the confrontation using video, film or other recording techniques.

235.8. The investigator shall draw up a record of the confrontation including the following information:

235.8.1. the date, time and place of the confrontation;

235.8.2. the investigator's family name, first name, father's name and title;

235.8.3. the family name, first name and father's name of each participant as well as the year, month, day and place of their birth, their nationality, education, family status, workplace, occupation or status, address and place of registration;

235.8.4. a note that the participants in the confrontation have been informed of their rights, duties and responsibilities;

235.8.5. a note about the circumstances of the confrontation, particularly the use of video, film or other recording techniques;

235.8.6. the questions put to the participants in the confrontation and their answers to these questions as well as their statements about the circumstances of the case.

235.9. The investigator shall acquaint the participants in the confrontation with the content of the confrontation record. Those questioned and the other persons participating in the confrontation shall be entitled to request additions and amendments to the record. The confrontation record shall be signed by the investigator and by those questioned and other persons participating in the confrontation. Every person questioned shall sign his testimony and each page of the record.

235.10. Where video, film or other recording techniques are used during the confrontation, the relevant documents, tapes or other information devices shall be attached to the record.

Chapter XXIX

EXAMINATION OF PLACES AND OBJECTS, EXHUMATION AND BODY SEARCH

Article 236. Examination of places and objects

236.1. The investigator shall examine the scene of the offence, buildings, documents, objects and human and animal corpses, with the aim of uncovering traces of the offence and other potential material evidence and determining the circumstances of the offence and other facts of significance to the case.

236.2. On discovery of an offence, except in circumstances where examination of the scene of the offence cannot be delayed, the examination shall be held in the daytime.

236.3. Where the examination takes place after the commencement of criminal proceedings and there is a suspect or accused, the suspect, the accused and/or any co-suspect or accused may participate in it. The investigator shall take steps in advance to guarantee the participation of co-offenders in the examination. Examination of the scene of the offence shall take place in the presence of at least 2 (two) witnesses.

236.4. The investigator shall conduct the examination of places or objects without violating any citizen's rights. Where necessary, he shall measure the object, make plans, sketches or drawings of it, and, if possible, make a photographic, video or film record.

236.5. During the examination, the investigator shall, independently or with the assistance of a specialist, take prints and impound documents or any other objects which may be significant as evidence in future.

236.6. After completing the examination, the investigator shall draw up a record giving the following information:

236.6.1. the time, date and place of the examination;

236.6.2. the investigator's family name, first name, father's name and title:

236.6.3. the family names, first names and father's names of those participating in the examination as well as the year, month, day and place of their birth, their nationality, education, workplace, occupation or status, address and place of registration;

236.6.4. information about the mutual relations of any circumstantial witness with the suspect, the accused or the victim (only in the event of participation of circumstantial witnesses in the examination of the scene of the offence);

236.6.5. a note to the effect that their rights, duties and responsibilities have been explained to each of the circumstantial witnesses (only in the event of participation of circumstantial witnesses in the examination of the scene of the offence);

236.6.6. a note about the circumstances of the examination, especially the use of photography, video, film or other recording techniques;

236.6.7. the sequence followed in the observation procedure and all the evidence revealed during the examination.

236.7. The record shall be signed by all the participants in the examination, who shall have the right to require that their notes be included in the record, and by the investigator. If the record comprises several pages, each page shall be signed by all the participants in the examination.

236.8. If, during the examination, photography, video or other recording techniques are used, the relevant photos, tapes or other information devices shall be attached to the record.

236.9. Examination of residential, service or industrial buildings and objects found there shall be conducted where there are grounds and circumstances provided for in Article 243.3 of this Code, in accordance with the requirements of Articles 177.2-177.6 of this Code.

Article 237. Exhumation

237.1. Where it is necessary to exhume a corpse, the investigator shall submit a reasoned request to the prosecutor in charge of the procedural aspects of the investigation for an application to be made to the relevant court. Exhumation may be carried out only on the basis of a court decision.

237.2. The corpse shall be exhumed with the participation of the investigator, a specialist in forensic medicine and, if they so wish, close relatives of the deceased or his legal representatives. After exhumation the corpse may be transferred to the appropriate medical establishment, in the presence of the aforementioned, with a view to conducting further examinations.

237.3. With the investigator's permission or on his instructions, photography, video, film or other recording techniques may be used while the exhumation takes place.

237.4. On completion of the exhumation the investigator shall draw up a record thereof, including the following information:

237.4.1. the time, date and place of the exhumation;

237.4.2. the investigator's family name, first name, father's name and title;

237.4.3. the title, family name, first name and father's name of the specialist in forensic medicine participating in the exhumation;

237.4.4. the family names, first names and father's names of other persons present at the exhumation; the year, month, day and place of their birth; their nationality, education, workplace, occupation or status, address and place of registration;

237.4.5. where close relatives of the deceased or his legal representatives are present at the exhumation, their family names, first names, father's names, year, month, day and place of birth, address and place of registration;

237.4.6. a note about the circumstances of the exhumation, especially if photography, video, film or other technical devices were used during the exhumation;

237.4.7. the sequence followed in the observation procedure and all evidence revealed during the exhumation.

237.5. The record of the exhumation shall be signed by all participants, who shall have the right to request the inclusion of their notes in it. If the record comprises several pages, the participants shall sign all the pages.

237.6. If, during the exhumation, photo, video, film or other recording techniques are used, the photos, tapes or other information devices shall be attached to the record.

Article 238. Body search

238.1. If there is no need for a forensic medical expert's report, the investigator may conduct a body search with the aim of noting evidence of the offence or particular signs on the body of a suspect, accused, victim or witness.

238.2. A decision by a court or the investigator to conduct a body search shall be binding on the person concerned. Except in cases of detention and arrest, a body search may be conducted against the will of the person concerned only by court decision.

238.3. Counsel for a suspect or accused shall be entitled to be present at a body search of the suspect or the accused.

238.4. Where necessary, the body search shall be conducted in the presence of a doctor or specialist in forensic medicine. A body search where the person concerned is required to undress shall be conducted with the participation of persons of the same sex.

238.5. If there is a need for a person of the opposite sex to undress, the investigator and defence counsel for the suspect or the accused may not be present. In this case, the body search shall be conducted by a doctor or a specialist in forensic medicine.

238.6. On completion of the body search the investigator shall draw up a record thereof including the following information:

238.6.1. the time, date and place of the body search;

238.6.2. the investigator's family name, first name, father's name and title;

238.6.3. the title, family name, first name and father's name of the specialist in forensic medicine or doctor participating in the body search;

238.6.4. the family name, first name and father's names of those present at the body search as well as the year, month, day and place of their birth, their education, workplace, occupation or status, address and place of registration;

238.6.5. the sequence followed in the observation procedure and any evidence revealed during the body search.

238.7. The record of the body search shall be signed by all those present, who shall have the right to require the inclusion of their notes in it. If the record comprises several pages, each page shall be signed by those present at the search.

Chapter XXX

IDENTIFICATION OF PERSONS AND OBJECTS

Article 239. Identification of a person

239.1. Where any person is to be presented for identification purposes to a witness, victim, suspect or accused, the investigator shall first question the person making the identification about the appearance and features of the person to be identified and the circumstances in which the former saw the latter and an appropriate record of the interview shall be drawn up.

239.2. The investigator shall take steps in advance to guarantee the presence of counsel for the suspect or accused at an identification parade concerning the latter.

239.3. On the investigator's instructions or with his permission, photo, video, film and other recording techniques may be used during the identification parade.

239.4. If the person making the identification is a witness or the victim, he shall first be warned of the criminal responsibility incurred for refusing to testify, evading questioning or giving false testimony intentionally. He shall also be informed of his right not to testify against himself or his close relatives.

239.5. The person to be identified shall be presented to the identifying person together with at least 3 (three) other people of the same sex who do not differ greatly in their appearance and clothing from the person to be identified.

239.6. Before the start of the identification parade, the investigator shall ask the person to be identified to take position wherever he wishes in the row of persons on parade.

239.7. At the request of the identifying person, the identification process may be carried out in such a way that the person making the identification is not seen by those taking part in the identification parade.

239.8. If the identifying person is uncertain that he can recognise the person to be identified, the identification parade may not be conducted and any identification made shall not be considered valid. The same person shall not be asked again to identify the person concerned on the basis of the same features.

239.9. If necessary the identification procedure may be conducted using photographs of people who do not differ greatly from each other in their appearance and clothing.

Article 240. Identification of objects

240.1. Where it is necessary to present any object for identification, the investigator shall first question the person who is to identify the object about its characteristics and the circumstances in which he saw it, and shall draw up a record of this interview.

240.2. Counsel for the suspect or the accused shall be entitled to participate in the identification of the object. If counsel for the defence, whom the investigator has informed in advance of the performance of this investigative procedure, expresses a wish to participate in the identification of the object, the investigator shall guarantee this right.

240.3. On the investigator's instructions or with his permission, photography, video, film or other recording techniques may be used during the identification of the object.

240.4. If the identifying person is a witness or the victim, he shall first be warned of the criminal responsibility incurred for refusing to testify, evading questioning or giving false testimony intentionally. He shall also be informed of the right not to testify against himself or his close relatives.

240.5. The object to be identified shall be presented to the identifying person among other objects of the same kind. The identifying person shall be asked to indicate the object which he recognises and to state the reasons for his choice.

240.6. Identification of a corpse, parts thereof or objects of which it is impossible or difficult to find the equivalent shall be conducted on the basis of a single reproduction presented to the identifying person.

240.7. If the person identifying a corpse has seen the person concerned alive, the use of cosmetics shall be allowed on the corpse. When an object is being identified it shall be permissible to clean dirt, rust and other deposits from it.

Article 241. Record of the identification

241.1. After the identification the investigator shall draw up a record including the following:

241.1.1. the place, date and time of the identification;

241.1.2. the investigator's family name, first name, father's name and title;

241.1.3. the family names, first names and father's names of those participating in the identification, the year, month, day and place of their birth, their nationality, education, workplace, occupation or status, address and place of registration;

241.1.4. a note that persons participating in the identification have been informed of their rights, duties and responsibilities;

241.1.5. a note about the circumstances of the identification, including use of photography, video, film and other recording techniques;

241.1.6. the sequence followed in the observation procedure and all the evidence discovered, including a description of the objects presented for identification and their identifying features.

241.2. The identification record shall be signed by all the participants in the investigative procedure, who shall have the right to require the inclusion of their notes in it. If the record comprises several pages, the participants shall sign each page.

241.3. If, during the identification, photography, video, film or other recording techniques are used, the documents, photos, tapes or other information devices shall be attached to the record.

Chapter XXX

SEARCH AND SEIZURE

Article 242. Conduct of a search

242.1. Where the available evidence or material discovered in a search operation gives rise to a suspicion that a residential, service or industrial building or other place contains, or certain persons are in possession of, objects of potential significance to a case, the investigator may conduct a search.

242.2. A search may be conducted with the aim of finding persons or animals being sought or human or animal remains.

242.3. Objects and documents which may be of significance as evidence may be impounded by the investigator once it has been established on the basis of the evidence collected or the material discovered in a search operation where or in whose possession they are.

Article 243. Grounds for conducting a search and seizure

243.1. As a rule, searches and seizures shall be conducted by decision of a court. A court may decide to give permission for a search or seizure in response to a reasoned request from the investigator and submissions made by the prosecutor in charge of the procedural aspects of the investigation. The search or seizure shall be conducted in accordance with the requirements of Articles 177.2-177.6 of this Code.

243.2. The decision to authorise the search or seizure shall state the following:

243.2.1. the date, time and place of the decision;

243.2.2. the family name, first name, father's name and title of the person making the decision;

243.2.3. the objective grounds for conducting the search or seizure;

243.2.4. the family name, first name and father's name of the person conducting the search or seizure;

243.2.5. the place where the search or seizure is to be carried out (nature of the building, address or location);

243.2.6. in the case of a decision authorising seizure, the objects and documents to be impounded.

243.3. In circumstances which admit no delay, the investigator may conduct a search or seizure without court permission only if there is precise information indicating that:

243.3.1. objects or documents concealed in a residential building constitute proof of the commission of an offence or of preparations for the commission of an offence against a person or the state;

243.3.2. a person who has prepared or committed an offence against a person or the state or a person who has escaped from a remand facility or prison is hiding in a residential building;

243.3.3. there is a human corpse (or parts of a corpse) in the building;

243.3.4. there is a real danger to someone's life or health in the building.

243.4. In the circumstances provided for in Article 243.3 of this Code, the investigator shall give a reasoned decision to conduct a search or seizure. The investigator's decision shall be drawn up in accordance with the requirements of Article 243.2 of this Code and shall give due consideration to the need to conduct the search and seizure without court permission and the reasons why it cannot be delayed.

Article 244. Participants in a search or seizure

244.1. During a search or seizure the presence of at least 2 (two) circumstantial witnesses shall be obligatory.

244.2. Defence counsel for the suspect or accused shall be entitled to participate in the conduct of a search or seizure concerning them. If defence counsel, having been informed of the conduct of this investigative procedure by the investigator, expresses the wish to participate in the search and seizure, the investigator shall take steps to guarantee this right.

244.3. Where necessary, an interpreter or specialist may participate in the conduct of the search or seizure.

244.4. Steps shall be taken to guarantee the presence of the person concerning whom the search and seizure is being conducted, adult members of his family or those who represent his legal interests. If it is impossible to secure the participation of the above-mentioned people, a representative of the relevant housing organisation or local authority shall be asked to participate.

244.5. A search or seizure operation in an administrative department, institution, organisation or military unit shall be conducted in the presence of a representative of the entity concerned.

244.6. Persons concerned by the search or seizure and circumstantial witnesses, specialists, interpreters, representatives and defence counsel shall have the right to be present throughout the procedures conducted by the investigator and to make observations, which shall be included in the record.

Article 245. Rules governing searches and seizures

245.1. An investigator shall be entitled to enter a residential or other building on the basis of the court decision concerning the search or seizure.

245.2. Before conducting the search or seizure, the investigator shall acquaint the person concerned with the decision.

245.3. The investigator shall be entitled to conduct the search or seizure using photography, video, film or other recording techniques.

245.4. The investigator shall take measures to prevent the dissemination of information about the circumstances of the search or seizure, its results and any information concerning the private life of the person concerned.

245.5. The investigator may prohibit those present in the place where the search or seizure is conducted from leaving the premises or speaking to each other or with other persons before the end of the search or seizure operation.

245.6. On making a seizure, the investigator shall, after pronouncing the decision, propose that the objects or documents to be seized be surrendered voluntarily and, in the event of refusal, shall impound them by force.

245.7. On conducting a search, the investigator shall, after pronouncing the decision, propose that the objects or documents to be seized be given up voluntarily and that the wanted person's hiding place be revealed. If the objects or documents are surrendered or the person's hiding place is revealed voluntarily, this shall be noted in the record. Failure to surrender the objects or documents being searched for, in whole or in part, or to reveal the hiding place of the wanted person, shall result in the search being conducted.

245.8. During a search or seizure, all objects and documents shall be presented to the participants in the investigative procedure and their quantity, size, weight, material and other special features shall be specified as part of a detailed description. The objects and documents shall be packed and, if necessary, sealed by the investigator.

245.9. If, during the conduct of a search or seizure, the owners refuse to open closed buildings or store-rooms, the investigator shall have the right to open these.

245.10. During a search or seizure, the following shall be prohibited:

245.10.1. unnecessary damage to doors, locks and other items and creating a disturbance in the building;

245.10.2. use of chemical or psychotropic substances, technical devices or equipment which may be harmful to human health and the environment.

Article 246. Body search and seizure

246.1. The investigator may, normally by court decision, impound objects and documents of potential significance as evidence which are on the clothing, affairs and body of the person concerning whom an investigative procedure is being conducted.

246.2. In the absence of a court decision, a body search may be conducted in the following circumstances:

246.2.1. if a suspect has been detained and he is in the custody of the police or another law enforcement agency;

246.2.2. if the restrictive measure of arrest is applied to an accused person;

246.2.3. if there are sufficient grounds to suspect that a person in a building where a search or seizure is being conducted is in possession of objects or documents of potential significance as evidence in the criminal prosecution.

246.3. A body search and seizure shall be conducted by the investigator in the presence of a specialist and at least 2 (two) circumstantial witnesses who are of the same sex as the person on whom the body search is being conducted.

Article 247. Record of the search or seizure

247.1. After completing a search or seizure the investigator shall draw up a record continuing the following information on the investigative procedures carried out:

247.1.1. the place, date and time of the search or seizure;

247.1.2. the investigator's family name, first name, father's name and title;

247.1.3. the family names, first names and father's names of other persons participating in the search or seizure as well as the year, month, day and place of their birth, their nationality, education, workplace, occupation or status, address and place of registration;

247.1.4. a note that the person in respect of whom the search and seizure was conducted was informed of his rights, duties and responsibilities;

247.1.5. the family names, first names and father's names of the circumstantial witnesses and the year, month, day and place of their birth, their nationality, education, workplace, occupation, address and place of registration;

247.1.6. information concerning relations between each of the circumstantial witnesses and the suspect, accused and victim;

247.1.7. a note that each of the circumstantial witnesses has been informed of his rights, duties and responsibilities;

247.1.8. a note about the circumstances of the search or seizure, including use of photography, video, film or other recording techniques during the conduct of the procedure;

247.1.9. the sequence followed and all the evidence discovered during the search and seizure, whether or not the objects and persons sought were surrendered voluntarily; any attempts made to hide the objects and documents discovered; and the quantity, size, weight, individual features and other characteristics of the objects seized, as part of a detailed description thereof.

247.2. The record of the search or seizure shall be signed by all the participants, who shall have the right to require the inclusion of their notes in it. If the record consists of several pages, each page shall be signed by the participants.

247.3. If, during the search or seizure, photography, video, film or other recording techniques are used, the relevant documents, photos, tapes or other information devices shall be attached to the record.

247.4. A copy of the record of the search and seizure shall be given to the person concerned by the investigative procedure or to an adult member of his family or his representative; in their absence it shall be given to the representative of the housing organisation in whose area the investigative procedure was conducted.

247.5. If a search or seizure is conducted on the premises of an administration, institution, organisation or military unit, a copy of the record shall be given to its representative.

Chapter XXXII

ATTACHMENT OF PROPERTY

Article 248. Nature of the attachment of property

248.1. Attachment of property:

248.1.1. shall be carried out with the aim of guaranteeing a civil party's claim and the confiscation of property in circumstances provided for under criminal law;

248.1.2. shall consist in making an inventory of the property, which shall be left with the owner or holder, and where necessary prohibiting its use;

248.1.3. where applied to bank deposits, shall prevent any further transactions on an account.

248.2. Property of the accused and property of other persons who may be held liable with regard to property may be attached, irrespective of what it is or in whose possession it is.

248.3. Attachment shall apply to the joint property of the accused and his or her spouse or to the accused's share of property owned jointly with other persons. If there is sufficient evidence that the property was used in committing an offence or was acquired or enhanced by committing an offence, the whole property or the greater part thereof shall be attached.

248.4. Attachment may not apply to food which is essential to the owner or holder of the property and his family,, fuel of little market value, specialist books and equipment used in carrying on a professional activity, frequently used kitchen utensils and supplies or other essentials.

248.5. Except where part of the property of an administrative department, institution or organisation can be sealed off without damaging the economic activity of the entity concerned, their property may not be attached.

Article 249. Grounds for attachment of property

249.1. Property may be attached only if evidence collected in the criminal case provides sufficient grounds for doing so.

249.2. As a rule, property shall be attached on the basis of a court decision. The court shall give a decision to attach property in the following circumstances:

249.2.1. in response to a reasoned request by the investigator and appropriate submissions by the prosecutor in charge of the procedural aspects of the investigation;

249.2.2. if persons applying to the court submit sufficient prima facie evidence to confirm fulfilment of the requirements of Article 249.1 of this Code and substantiate the need to attach property.

249.3. The court decision to attach the property shall state the following:

249.3.1. the date, time and place of the decision;

249.3.2. the family name, first name, father's name and title of the judge who gave the decision;

249.3.3. the objective grounds and reasons for attachment of the property;

249.3.4. the family name, first name and father's name of the person whose property is attached;

249.3.5. the actual property to be attached and the property required to guarantee the civil party's claim;

249.3.6. the period for which the property is attached.

249.4. Where there is a reasonable suspicion that the property to be attached will not be surrendered voluntarily, the attachment decision shall include authority to conduct a search.

249.5. In cases which admit of no delay, where there is precise information indicating that the person who committed the offence may destroy, damage, spoil, conceal or, to satisfy the civil claim, misappropriate property or unlawfully obtained items, the investigator may attach the property without a court decision if the requirements of Article 177.2-177.5 of this Code are met.

249.6. In the circumstances provided for in Article 249.5 of this Code, the investigator shall make a reasoned decision about the attachment of the property. The investigator's decision shall be drawn up in accordance with Article 249.3 of this Code and shall substantiate the need to attach the property without delay and without a court decision.

Article 250. Valuation of the property to be attached

250.1. The value of the property to be attached shall be determined on the basis of its average market price in that area, without applying additional fines.

250.2. The value of property confiscated with a view to satisfying a claim lodged by a civil party or by the prosecutor in charge of the procedural aspects of the investigation shall not exceed the amount of the claim.

250.3. Where several persons are charged with an offence, all or part of the property of each of those arrested shall be attached; where this is not possible, all of the property of any one of them may be attached with a view to satisfying the civil party's claim..

Article 251. Procedure governing attachment of property

251.1. A decision to attach property shall be executed by the investigator during the preliminary investigation proceedings and by the court bailiff during the trial proceedings.

251.2. The investigator or the court bailiff shall present the decision to attach the property to its owner or holder and request that the property be handed over. In the event of refusal to comply, the attachment of the property shall be enforced. If there is a suspicion that the owner of the property is concealing it, the investigator may conduct a search on the basis of an appropriate decision.

251.3. Counsel for the defence shall have the right to be present during the attachment of the accused's property. If counsel, having been informed of the forthcoming conduct of this investigative procedure by the investigator, expresses the wish to attend the attachment of the property, the investigator or court bailiff shall take steps to guarantee this right.

251.4. An expert may be asked to establish the value of the property being attached.

251.5. With the permission of the investigator or the court bailiff, photography, video, film and other recording techniques may be used during attachment of the property.

251.6. The attachment of the property shall be conducted in accordance with the sequence established by the Code of Civil Procedure of the Azerbaijan Republic. An owner or holder of property who is present at the attachment of the property shall be entitled to determine which items are to be attached first, in order to arrive at the sum indicated in the decision.

251.7. Except for immovable property and large objects, attached property shall, as a rule, be removed, and shall be handled as follows:

251.7.1. precious metals and stones, pearls, money in local and foreign currency, securities (shares, bonds, cheques, treasury notes, loan certificates, lottery tickets etc) shall be given to the State Bank of the Azerbaijan Republic for holding;

251.7.2. other objects removed shall, if possible, be packed, sealed and kept on the premises of the investigating authority or court as the case may be, or handed over for safe-keeping to a representative of the relevant state authority, who shall be warned of his statutory liability.

251.8. Property that is attached but not removed shall be sealed and given to its owner or holder, or adult members of his family, for safe-keeping, in exchange for a commitment not to misappropriate, damage or destroy it, and the person concerned shall be warned of the statutory liability incurred for doing so.

Article 252. Record of the attachment of property

252.1. The investigator shall draw up a record of the attachment of property, and the court bailiff a record of the inventory of the property, stating the following:

252.1.1. the date, time and place of attachment of the property;

252.1.2. the family name, first name, father's name and title of the investigator or the court bailiff;

252.1.3. the family name, first name, father's name and title of the expert;

252.1.4. the family name, first name and father's name of the person whose property is attached, the year, month, day and place of his birth, his workplace or title, address and place of registration;

252.1.5. a note that the rights and duties of the person whose property is attached have been explained to him;

252.1.6. a note about the circumstances of the attachment of property, especially the use of photography, video, film and other recording techniques during the process;

252.1.7. a list of the attached property giving its designation, quantity, size, weight, age, other individual features and the value established by the expert;

252.1.8. a note of what property was taken and to whom it was given for safe-keeping;

252.1.9. information on any co-owner of the confiscated property.

252.2. The record of the attachment or inventory of the property shall be signed by all participants in the investigative procedure, and they shall have the right to require the inclusion of their observations in it. If the record consists of several pages, the participants shall sign each page separately.

252.3. If, during the attachment of the property, photography, video, film or other recording techniques are used, the relevant documents, photos, tapes or other information devices shall be attached to the record.

252.4. A signed copy of the record shall be given to the owner or holder of the property or, in the event of his absence to an adult member of his family, and to the representative of the state authority responsible for keeping the property. If the attached property was located on the premises of an administration, institution or organisation, a signed copy of the record shall be given to a representative of its head office.

Article 253. Complaints of mistaken attachment of property

253.0. Anyone who considers that property not belonging to the accused has been attached in error shall have the right to request the prosecuting authority to release the property from attachment. If the prosecuting authority refuses the request or fails to respond to the applicant's request within 10 (ten) days of its receipt, the applicant shall be entitled to apply to the civil courts for the release of the property from attachment. The civil court shall decide the issue of the ownership of the property, and its decision concerning the release of the property from attachment shall be binding on the investigator, the prosecutor in charge of the procedural aspects of the investigation and the court examining the criminal case.

Article 254. Release of property by order of the criminal court

254.1. Property attached by court order may be released from attachment only on the basis of a court decision, except where the civil claim in the criminal case is withdrawn, the charges against the accused are altered or the criminal prosecution is discontinued.

254.2. The court or the prosecutor in charge of the procedural aspects of the investigation shall be empowered to release property which has been attached unlawfully by the prosecuting authority.

Chapter XXXIII

CONFISCATION OF POSTAL, TELEGRAPH AND OTHER MESSAGES; INTERCEPTION OF TELEPHONE CONVERSATIONS AND OTHER COMMUNICATIONS

Article 255. Messages which can be confiscated

255.0. The postal, telegraph and other messages which can be confiscated shall include:

255.0.1. all types of letter;

255.0.2. telegrams,

255.0.3. radiograms;

255.0.4. wrappings;

255.0.5. presents;

255.0.6. parcels;

255.0.7. money orders.

Article 256. Grounds for confiscating postal, telegraph and other messages

256.1. Confiscation of postal, telegraph and other messages shall, as a rule, be decided by a court. Where there are sufficient grounds to presume that postal, telegraph and other messages sent or received by the suspect or accused may be of evidential value in the criminal case, the relevant court shall take a decision to confiscate the postal, telegraph and other messages on the basis of a reasoned application by the investigator and the relevant submissions by the prosecutor in charge of the procedural aspects of the investigation. Confiscation of postal, telegraph and other messages shall be carried out in accordance with Article 177.2-177.5 of this Code.

256.2. The decision concerning the confiscation of postal, telegraph and other messages shall include the following:

256.2.1. the date, time and place of the decision;

256.2.2. the family name, first name, father's name and title of the person who made the decision;

256.2.3. the objective grounds and reasons for confiscating the postal, telegraph and other messages;

256.2.4. the family name, first name, father's name and exact address of the person(s) whose postal, telegraph and other messages have been confiscated;

256.2.5. the exact type(s) and location of the postal, telegraph and other messages which have been confiscated;

256.2.6. the name of the communications administration required to hold the postal, telegraph and other messages;

256.2.7. the period for which the postal, telegraph and other messages have been confiscated.

256.3. The confiscated postal, telegraph and other messages shall be examined and removed on the basis of the decision concerning their confiscation.

256.4. Confiscation of postal, telegraph and other messages shall be discontinued in the following cases:

256.4.1. by decision of the court which ordered the confiscation of the postal, telegraph and other messages, or of a higher court, overturning the confiscation decision;

256.4.2. on the expiry of the period for which the postal, telegraph and other messages were confiscated;

256.4.3. on the basis of a decision by the investigator that it is unnecessary to continue the confiscation of the postal, telegraph and other messages, or on the basis of a decision by a court or the prosecutor in charge of the procedural aspects of the investigation ruling that the confiscation decision is unlawful and overturning it.

Article 257. Rules governing the confiscation, examination and removal of postal, telegraph and other messages

257.1. The investigator shall send the decision to confiscate the postal, telegraph or other messages to the head of the relevant communications administration.

257.2. The head of the communications administration shall immediately confirm receipt of the decision to the investigator and shall hold the postal, telegraph or other messages specified in the relevant decision.

257.3. The investigator shall take the following measures in connection with the confiscation of the postal, telegraph and other messages:

257.3.1. on receiving conformation from the head of the communications administration that the postal, telegraph and other messages specified in the decision are being held, he shall visit the communications administration and examine the messages together with its employees;

257.3.2. on the basis of the decision to confiscate the postal, telegraph and other messages, he shall inform the head of the communications administration of the part of the decision authorising their removal, shall require him to sign it and shall remove the relevant messages.

257.4. In the event of the discovery of documents and other items that may be of significance to the case among the postal, telegraph and other messages, the investigator may remove the relevant message or merely make a copy of it. Where there is no information of significance to the case, the investigator shall give instructions to send the message examined to the appropriate address or to keep it for a specified period.

257.5. The investigator shall have the right to use photography, video, film or other recording techniques during the confiscation, examination and removal of postal, telegraph and other messages.

Article 258. Record of the examination and removal of postal, telegraph and other messages

258.1. A record of the examination and removal of the postal, telegraph and other messages shall be drawn up, including the following information:

258.1.1. the date, time and place of the examination and removal;

258.1.2. the investigator's family name, first name, father's name and title;

258.1.3. the family name, first name and father's name of the person conducting the examination and removal of the postal, telegraph and other messages, the year, month, day and place of his birth, his workplace or title, address and place of registration;

258.1.4. the family names, first names and father's names of other persons participating in the examination or removal (the head of the communications administration and, if necessary, other employees of that administration), the year, month, day and place of their birth, their workplace or title, address and place of registration;

258.1.5. a note on the circumstances of the examination and removal, on which messages were examined and removed, on the messages to be sent to the addressee and those to be held temporarily, on the copies made of postal, telegraph and other messages, and on the technical devices used;

258.1.6. any evidence revealed during the examination and removal of messages, in the order of its discovery.

258.2. The record of the examination and removal of the postal, telegraph and other messages shall be signed by all the participants in the investigative procedure, who shall have the right to require the inclusion of their observations in it. Where the record consists of several pages, the participants in the investigative procedure shall sign each page separately.

258.3. If, during the confiscation, examination and removal of the postal, telegraph and other messages, photography, video, film or other recording techniques are used, the relevant documents, photos, tapes or other information devices shall be attached to the record.

Article 259. Interception of conversations held by telephone and other devices, of information sent by communication media and other technical means, and of other information

259.1. Interception of conversations held by telephone and other devices and of information sent by communication media and other technical means shall as a rule be carried out on the basis of a court decision. Where there are sufficient grounds to suppose that information of significance to the criminal case is included among information sent or received by the suspect or the accused, the court shall, on the basis of a reasoned request by the investigator and appropriate submissions by the prosecutor in charge of the procedural aspects of the investigation, authorise the interception of conversations held by telephone or other devices, information sent by communication media or other technical means, or other information. Interception of such conversations and information shall be carried out in accordance with Article 177.2-177.5 of this Code.

259.2. Interception of conversations held by telephone and other devices or of information sent by communication media or other technical means shall not continue for longer than 6 (six) months.

259.3. Interception of information which comprises personal, family, state, commercial or professional secrets, including information about financial transactions, the situation of bank accounts and the payment of taxes, may be carried out only on the basis of a court decision.

259.4. The decision authorising the interception of conversations held by telephone and other devices, of information sent by communication media or other technical means, or of other information shall state the following:

259.4.1. the date, time and place of the decision;

259.4.2. the family name, first name, father's name and title of the person who made the decision;

259.4.3. the objective grounds and reasons for intercepting the relevant conversations and information;

259.4.4. the family name, first name, father's name and exact address of the person(s) whose information or conversations are to be intercepted;

259.4.5. the exact type(s) of conversation or information to be intercepted;

259.4.6. the name of the administration assigned the duty of intercepting the conversations or information;

259.4.7. the period for which interception of the conversations and information is to be carried out.

259.5. Conversations held by telephone and other devices, information sent by communication media or by other technical means and other information shall be intercepted by those authorised to do so, on the basis of the relevant decision. The intercepted conversations and information shall be transcribed on paper or copied on magnetic devices, confirmed by the signature of the person who intercepted them and given to the investigator. A summary record of the interception of the conversations and information related to the case shall be drawn up and added to the case file. Intercepted information not related to the case shall be immediately destroyed.

Chapter XXXIV

VERIFICATION OF TESTIMONY ON SITE AND CORROBORATIVE EXPERIMENTS

Article 260. Verification of testimony on site

260.1. Verification of testimony on site shall be carried out in order to clarify or establish the accuracy of the evidence given by a witness, victim, suspect or accused in connection with the offence committed, at the exact known location.

260.2. Counsel for the suspect or the accused shall be entitled to participate in the verification of evidence given by the suspect or the accused. If counsel for the suspect or the accused, having been informed of the performance of this investigative procedure in advance, expresses the wish to participate in the verification on site, the investigator shall take steps to guarantee this right.

260.3. Where necessary, at the investigator's invitation, an interpreter, a specialist and the legal representative or representative of the participant in the criminal case whose testimony is being verified, and a teacher, doctor or other persons may also participate in the verification on site.

260.4. The investigator shall visit the site together with the person whose testimony is being verified, and shall propose that he point out (or describe) the circumstances or items about which he previously gave evidence or may now give evidence. The person being questioned shall show the way to the site, point out or describe the circumstances and items about which he previously gave evidence or may now give evidence, and answer the investigator's questions.

260.5. On the investigator's instructions or with his permission, photography, video, film and other recording techniques may be used during the verification.

260.6. If, during the verification on site, objects and documents which may be of evidential value to the case are revealed, they shall be impounded on the basis of a decision under Article 243.1 of this Code. The investigator shall as far as possible pack and seal the objects and documents removed and note their removal in the record of the verification on site.

Article 261. Record of the verification of testimony on site

261.1. After completing the verification of testimony on site the investigator shall draw up a record containing the following information:

261.1.1. the date, time and place of the verification of testimony on site;

261.1.2. the investigator's family name, first name, father's name and title;

261.1.3. the family names, first names and father's names of others present (defence counsel, interpreters, specialists, legal representatives, representatives, teachers, doctors, etc) the year, month, day and place of their birth, their nationality, education, workplace, occupation or title, address and place of registration;

261.1.4. the family name, first name and father's name of the person whose testimony was verified on site, the year, month, day and place of his birth, his workplace or title, address and place of registration;

261.1.5. a note that the rights and duties of the person whose testimony was verified on site were explained to him;

261.1.6. a note about the circumstances of verification on site, including the use of photography, video, film or other recording techniques;

261.1.7. the evidence given by the person concerned, if possible verbatim;

261.1.8. all evidence discovered during the verification of testimony on site, in the order in which it was observed.

261.1.9. a note about the removal of any objects or documents and their description.

261.2. The record of the verification of testimony on site shall be signed by all the participants in this investigative procedure, who shall have the right to require the inclusion of their observations in it. If the record consists of several pages, each page shall be signed separately by the participants.

261.3. If, during the verification of testimony on site, photography, video, film or other recording techniques are used, the relevant documents, photos, tapes or other information devices shall be attached to the record.

Article 262. Corroborative experiments

262.1. The investigator may conduct a corroborative experiment in order to check and clarify information which may be of importance to the prosecution and may be investigated by experimental and other means.

262.2. Counsel for the suspect or the accused may also participate in a corroborative experiment conducted with the participation of the suspect or the accused. If defence counsel, having been informed in advance about the conduct of this investigative procedure by the investigator, expresses the wish to participate in the conduct of the experiment, the investigator shall take steps to guarantee this right.

262.3. Witnesses, specialists, teachers, doctors or other persons may also participate in the corroborative experiment at the investigator's invitation.

262.4. On the instructions or with the permission of the investigator, photography, video, film or other recording techniques may be used during the conduct of the corroborative experiment.

262.5. The conduct of a corroborative experiment shall be permissible where it does not endanger human life or health, jeopardise a person's reputation or dignity or entail material damage.

Article 263. Record of the corroborative experiment

263.1. At the end of the corroborative experiment the investigator shall draw up a record containing the following:

263.1.1. the date, time and place of the corroborative experiment;

263.1.2. the investigator's family name, first name, father's name and title;

263.1.3. the family names, first names and father's names of other participants (the suspect, the accused, defence counsel, witnesses, specialists, teachers, doctors, etc) the year, month, day and place of their birth, their workplace or title, address and place of registration;

263.1.4. a note that the rights and duties of the person concerning whom the experiment is conducted have been explained to him;

263.1.5. a note about the circumstances of the corroborative experiment, including which information was verified (clarified) and use of photography, video, film and other recording techniques;

263.1.6. any evidence revealed by the corroborative experiment, in the order of its discovery (the circumstances and results of the experiment shall be given in detail).

263.2. The record of the corroborative experiment shall be signed by all the participants in the investigative procedure, who shall have the right to require the inclusion of their observations in it. If the record consists of several pages, each page shall be signed separately by the participants.

263.3. If, during the conduct of the corroborative experiment, photography, video, film or other recording techniques are used, the relevant documents, photographs, tapes or other information devices shall be attached to the record.

Chapter XXXV

EXPERT OPINIONS

Article 264. Principles governing expert opinions

264.1. An expert opinion shall be obtained in order to determine facts of significance to the prosecution which require specialist knowledge of science, technology or the arts or of investigative methods.

264.2. The fact that the preliminary investigator, investigator, prosecutor in charge of the procedural aspects of the investigation, specialist or other participants in the criminal proceedings possess specialist knowledge shall not exempt the prosecuting authorities from their obligation to obtain an expert opinion in appropriate cases. To determine the facts provided for in Article 140.0.1-140.0.4 of this Code, it shall be obligatory to seek the relevant expert opinion.

264.3. An expert opinion shall be obtained by decision of the investigator or, in the case of a private prosecution, on a written application by the defence. A decision to obtain an expert opinion shall be binding on the people to whom it relates.

264.4. The decision to obtain an expert opinion shall contain the following:

264.4.1. the date, time and place of the decision:

264.4.2. the investigator's family name, first name, father's name and title;

264.4.3. the objective grounds and reasons for obtaining an expert opinion;

264.4.4. the material evidence and other objects sent for expert examination, specifying the place, time and circumstances of their discovery and removal and, if the expert opinion is based on evidence in the case file, the information on which the expert is to base his conclusions;

264.4.5. the questions put to the expert;

264.4.6. the name of the expert body or the family name of the person from whom the expert opinion was commissioned.

264.5. In the event of a private prosecution, in order to determine facts which may serve the interests of the defence, defence counsel shall, on his own initiative, have the right to officially commission one or more experts or expert bodies to prepare an expert report, on condition that the work is paid for on the basis of a contract.

265.6. In the event of a private prosecution, where an expert report is commissioned on the initiative of the defence and at its expense, the expert shall be given a list of questions and the items to be examined.

264.7. In the event of a private prosecution, the opinions of experts who issued an expert report officially commissioned by the defence shall be included in the case file by the court and assessed together with the other evidence.

Article 265. Individual experts' reports and reports prepared by committees of experts

265.1. An expert report may be prepared by one or more persons appointed as experts who have specialist knowledge.

265.2. An individual expert's report shall be commissioned from a recognised expert or the head of an expert body that will appoint a recognised expert.

265.3. An expert report on a complex subject or a repeat expert report shall be prepared by a committee of experts with the same specialisation. At the request of the parties, their chosen experts may be included in the committee of experts. The experts shall consult among themselves and, on reaching a consensus, issue and sign their opinion. If there is a difference of opinion among the experts, each of them shall give his opinion on the question or questions giving rise to the difference.

265.4. Execution of a decision to commission an expert's report shall be binding on the head of an expert body. Where preparation of an expert report is entrusted to an expert body, the head of that body may set up a committee of experts to prepare the expert report.

Article 266. Complex expert reports

266.1. A complex expert report shall be obtained where facts of significance to the prosecution can be determined only by conducting several studies in different specialist fields of knowledge or different branches of the same field of knowledge.

266.2. Within the limits of their authority and on the basis of all the factual information established as part of the complex expert report, the experts shall state their conclusions as to the facts to be determined with the aid of the expert report.

266.3. An expert may not sign the part of the complex expert opinion that deals with matters beyond his authority.

266.4. If preparation of the complex expert report is entrusted to an expert body, responsibility for organising the relevant expert studies shall lie with the head of that body.

Article 267. Additional and repeat expert reports

267.1. If the expert fails to answer the questions put to him completely or if the investigator has additional questions on the items investigated, an additional expert report shall be commissioned from the same or another expert.

267.2. If the expert's opinion is not sufficiently reasoned or gives rise to doubts, if the evidence on which it is based is considered unreliable or if the rules of procedure governing preparation of an expert report are violated, a repeat expert report shall be commissioned.

267.3. A repeat expert report shall be commissioned from another expert. Experts involved in preparing the previous expert report may participate in and give explanations concerning the preparation of the repeat expert report, but shall not participate in the investigation or in drawing up the opinion.

267.4. Reasons for disagreement with the results of the previous expert report shall be given in the decision to commission the repeat expert report. When the repeat expert report is commissioned, questions may be put to the expert concerning the scientific basis of the means of investigation used to prepare the previous report.

Article 268. Rights of the suspect or accused with regard to the commissioning and preparation of an expert report

268.1. Where an expert report is commissioned and drawn up by decision of the investigator, the suspect or the accused shall have the following rights:

268.1.1. to be acquainted with the investigator's decision to appoint an expert, before the preparation of the expert report, and to be given an explanation of his related rights;

268.1.2. to object to the expert;

268.1.3. to request the appointment of an expert from a list of persons he provides;

268.1.4. to commission an alternative expert report on his own initiative and at his expense and to request the inclusion of this opinion in the case file;

268.1.5. to put additional questions to the expert appointed by the investigator;

268.1.6. with the investigator's permission, to participate in the preparation of the expert report, to ask the expert to explain the nature of the investigative methods used and the results obtained, and to give explanations to the expert;

268.1.7. to acquaint himself with the expert's opinion within 10 (ten) days of its receipt by the investigator and to request the preparation of an additional or repeat expert report;

268.1.8. to participate in the questioning of the expert conducted at his request.

268.2. The rights listed shall also apply to persons to whom compulsory medical measure are applied, where their mental condition so permits.

Article 269. Preparation of an expert report by an expert body

269.1. The investigator shall send the decision to commission an expert report, items to be examined and, where necessary, the case file to the head of the expert body for an opinion. The expert report shall be prepared by an employee of the expert body. If the decision does not state by whom the expert report is to be prepared, the head of the expert body shall designate one or more experts belonging to that body and inform the person who commissioned the expert report.

269.2. Where an expert report is prepared on the initiative and at the expense of the defence, the latter shall send a list of questions and the items for examination to the head of the expert body.

269.3. The head of the expert body shall fulfil the following duties:

269.3.1. explain to the expert his rights and duties under Article 97.4 and 97.6 of this Code;

269.3.2. inform the expert of the criminal responsibility incurred for intentionally giving false opinions and make a note to this effect in the decision on the appointment of the expert, requiring the expert to sign the decision as confirmation of receipt of this warning;

269.3.3. make arrangements for the preparation of the expert report;

269.3.4. provide secure means for the safe-keeping of items to be examined;

269.3.5. determine the time limit for submission of the expert report.

269.4. The head of the expert body shall not have the right to give advance instructions to the expert on the conduct of his investigation and the results expected of it.

Article 270. Preparation of an expert report not entrusted to an expert body

270.1. Where an expert report is prepared otherwise than by an expert body, the investigator shall proceed as follows after making the decision to commission an expert report:

270.1.1. summon the person commissioned to prepare the expert report;

270.1.2. ascertain his identity and authority;

270.1.3. determine the expert's relations with the suspect or the accused, the victim and any other participants in the criminal proceedings and verify whether there are grounds for an objection to the expert;

270.1.4. present the decision to commission the expert report to the expert;

270.1.5. explain to the expert his rights and duties under Article 97.4 and 97.6 of this Code;

270.1.6. inform the expert of the criminal responsibility incurred for intentionally giving false opinions;

270.1.7. note the requests and wishes of the expert;

270.1.8. note in the record that the expert has been acquainted with the decision to commission an expert report and that the procedures provided for in Article 270.1.2-270.1.7 of this Code have been carried out;

270.1.9. issue a reasoned decision about satisfaction or refusal of the expert's wishes.

270.2. Where it is necessary to examine the physical or mental condition of the suspect, the accused, the victim or a witness, or where their participation in the preparation of the expert report is considered necessary, the investigator shall arrange for them to be brought before the expert.

270.3. If the expert report is prepared on the initiative of the defence and at its expense, a contract shall be signed between the expert and the defence. The defence shall pay for the expert report and give a list of questions and the items for examination to the expert.

Article 271. The expert opinion

271.1. No later than one month after the receipt of the investigator's decision to commission an expert report or the conclusion of the contract between the expert and the defence, the expert shall carry out the necessary investigations, draw up a written opinion, confirm it with his signature and send it immediately to the person who commissioned the expert report or the defence.

271.2. The following information shall be given in the expert opinion:

271.2.1. the date, time and place of preparation of the expert report;

271.2.2. the expert's family name, first name, father's name, education, specialisation, the length of time for which he has been working on the specialist subject, his scientific titles and degrees and his position;

271.2.3. a note confirming that the expert is aware of the criminal responsibility incurred for intentionally giving false opinions;

271.2.4. the grounds for preparing the expert report:

271.2.5. a note about those who participated in the preparation of the expert report (family names, first names, father's names and home addresses);

271.2.6. a note about the circumstances in which the expert report was prepared, including material from the case file used by the expert, material evidence, samples and other items examined, methods applied and their degree of reliability, reasoned answers to the questions put and the facts of significance to the criminal case determined on the expert's initiative.

271.3. The material evidence, samples, other materials and photos, drawings or tables which confirm the expert's conclusions shall be attached to the expert opinion.

271.4. Where it is found that the material presented for examination is insufficient or the expert does not have sufficient knowledge, the expert opinion shall include information on the reasons why the expert is unable to answer all or some of the questions put to him.

271.5. The expert opinion shall be signed by the persons who prepared the expert report (the validity of these signatures shall be confirmed by the head of the expert body).

Article 272. Questioning of the expert

272.1. If the expert opinion is not sufficiently clear, if there are gaps which do not necessitate additional investigation or if it is necessary to clarify the methods applied or the terms used by the expert, the investigator shall be entitled to question the expert.

272.2. The expert shall be summoned and questioned in accordance with Articles 226, 227 and 230 of this Code.

272.3. It shall not be permissible to question the expert before he submits his opinion.

Chapter XXXVI

TAKING OF SAMPLES FOR EXAMINATION

Article 273. Conditions for taking samples

273.1. The investigator may conduct the appropriate investigative procedures in order to have samples taken for examination in the following cases:

273.1.1. where the samples are representative of the properties of a person, animal, corpse, animal carcass, object or material;

273.1.2. where samples are of significance to the prosecution.

273.2. In order to obtain samples for examination the investigator shall make a reasoned decision to perform the appropriate investigative procedures. The following information shall be given in the decision:

273.2.1. the date, time and place of the decision;

273.2.2. the investigator's family name, first name, father's name and title;

273.2.3. the objective grounds and reasons for taking the samples for examination;

273.2.4. the family name, first name and father's name of the person who is to take the sample;

273.2.5. the family name, first name and father's name of the person from whom the samples are to be taken;

273.2.6. the type and quantity of sample which must be taken for examination;

273.2.7. when and to whom the person should come for the samples to be taken for examination;

273.2.8. after the samples have been taken, when and to whom they must be handed over.

273.3. Samples for examination may also be taken during examination of premises, search, seizure, attachment of property and confiscation of correspondence, in the circumstances and under the procedure laid down in this Code.

273.4. Where necessary, on condition that there is no breach of human rights, samples may also be taken by an expert.

273.5. Regardless of the method used to take the samples for examination, it shall be prohibited to take samples in such a way as to cause people suffering or endanger their life, health or physical integrity.

Article 274. Types of sample taken for examination

274.0. The following samples may be taken for examination:

274.0.1. blood, sperm, hair, nail clippings, microscopic samples of skin;

274.0.2. saliva, sweat and other bodily secretions;

274.0.3. skin samples, dental impressions and foot and hand prints;

274.0.4. handwriting, knots, handicraft and other materials representative of human skills;

274.0.5. a voice phonogram;

274.0.6. samples of materials, substances, raw materials and manufactured products;

274.0.7. tools, bullets and cartridge cases;

274.0.8. other substances and objects.

Article 275. Taking of samples on the basis of the investigator's decision

275.1. In order to have samples taken for examination, the investigator shall summon the person from whom the samples are to be taken to his office, or shall go to the place where that person is to be found.

275.2. Counsel for an accused or suspect from whom samples are to be taken shall have the right to be present. If defence counsel, having been informed of the conduct of this investigative procedure by the investigator in advance, expresses the wish to participate in the taking of samples, the investigator shall guarantee this right.

275.3. At the invitation of the investigator a specialist, teacher, doctor or other person may also participate in the taking of samples for examination.

275.4. Before samples are taken for examination, the investigator shall acquaint all those present with the relevant decision, which they shall sign, and shall explain their rights and duties.

275.5. The investigator shall have the right to use photography, video, film and other recording techniques while samples are taken for examination.

275.6. The investigator, or another person acting under his instructions, shall perform the necessary acts, except in cases where people of the opposite sex are required to undress, and in the presence of other persons participating in this investigative procedure, shall take the samples for examination. Samples taken for examination, with the exception of documents, shall be packed and sealed.

Article 276. Record of the taking of samples

276.1. After taking the samples, the investigator shall draw up a record containing the following information:

276.1.1. the date, time and place of the taking of samples;

276.1.2. the investigator's family name, first name, father's name and title;

276.1.3. the titles, family names, first names and father's names of those participating in the taking of samples for examination, the year, month, day and place of their birth, their workplace, address and place of registration;

276.1.4. a note that those participating in the taking of samples for examination have been given an explanation of their rights and duties;

276.1.5. a note about the circumstances of the taking of samples for examination, including the nature of the samples and the means whereby they were taken, and a note about use of photography, video, film or other recording techniques;

276.1.6. a description of the measures performed in the order followed, the scientific and technical methods and means utilised and the samples themselves;

276.1.7. all the information revealed during the taking of samples, in the order of its discovery (detailing the circumstances and results of the taking of samples).

276.2. The record of the taking of samples for examination shall be signed by all the participants in the investigative procedure, who shall have the right to require the inclusion of their observations in it. If the record consists of several pages, each page shall be signed separately by all the participants.

276.3. The samples taken for examination shall be attached to the record. If, during the taking of samples for examination, photography, video, film or other recording techniques are used, the relevant documents, photos, tapes or other information devices shall be attached to the record.

Chapter XXII

SUSPENSION AND DISCONTINUATION OF CRIMINAL PROCEEDINGS

Article 277. Rules governing suspension of criminal proceedings

277.1. Criminal proceedings shall be suspended by a reasoned decision of the investigator in the circumstances provided for in Article 53.1 of this Code.

277.2. The decision to suspend the criminal proceedings shall contain the following information:

277.2.1. the date, time and place of the decision;

277.2.2. the investigator's family name, first name, father's name and title;

277.2.3. when and by whom the criminal proceedings were commenced;

277.2.4. the circumstances constituting grounds for the commencement of proceedings;

277.2.5. the facts determined during the investigation;

277.2.6. the reasons for suspending the criminal proceedings;

277.2.7. the grounds for the investigator's decision to suspend the proceedings, indicating one or more of the circumstances mentioned in Article 53.1 of this Code;

277.2.8. the family name, first name and father's name of the person against whom proceedings are suspended;

277.2.9. the measures to be taken in connection with the suspension of the criminal proceedings.

277.3. A copy of the investigator's decision to suspend the criminal proceedings shall be sent within 24 hours to the prosecutor in charge of the procedural aspects of the investigation.

277.4. The investigator shall inform the victim, his representative, the civil party, the defendant to the civil claim and their representatives in writing of the decision to suspend the criminal proceedings and of their right to challenge the decision to suspend the proceedings under the procedure laid down in Article 122 of this Code. In the event of suspension of the criminal proceedings on the grounds provided for in Article 53.1.4-53.1.6 of this Code, the accused and his counsel shall also be duly informed.

277.5. After suspending the criminal proceedings, the investigator shall take the following measures himself or via the preliminary investigating authority:

277.5.1. in the circumstances provided for in Article 53.1.1 of this Code, take steps to identify the person to be charged with the offence;

277.5.2. in the circumstances provided for in Article 53.1.2 of this Code, take steps to trace the accused;

277.5.3. in the circumstances provided for in Article 53.1.3 of this Code, take steps to search for an accused person who has gone into hiding.

277.6. No investigative procedures may be conducted in respect of a criminal case which has been suspended.

Article 278. Search for the accused

278.1. A warrant to search for the accused may be issued by the investigator concurrently with the conduct of the investigation or with a suspension of the criminal proceedings.

278.2. If the location of the accused is unknown, or if the accused has gone into hiding, the investigator shall issue a search warrant to the relevant preliminary investigating authority.

278.3. The search for the accused shall consist in taking steps to determine his whereabouts, apprehend him and place him at the disposal of the prosecuting authority.

278.4. The following measures may be applied to an accused who has been traced and detained in accordance with the provisions of this Code:

278.4.1. the court exercising judicial supervision may choose arrest or an alternative restrictive measure, or alter that decision;

278.4.2. the investigator in charge of the case may choose a restrictive measure other than arrest or the alternatives to it, or alter that decision.

Article 279. Resumption of suspended criminal proceedings

279.1. Suspended criminal proceedings shall be resumed in the following cases by decision of the investigator:

279.1.1. where the circumstances provided for in Article 53.1 of this Code, justifying a suspension of the proceedings, no longer exist;

279.1.2. where it is necessary to carry out procedural measures which can be performed without the participation of the accused.

279.2. A copy of the investigator's decision to resume the criminal proceedings shall be sent to the prosecutor in charge of the procedural aspects of the investigation within 24 hours at the latest.

279.3. The criminal proceedings may be resumed on the basis of a decision by the prosecutor in charge of the procedural aspects of the investigation or the court exercising judicial supervision to set aside the investigator's decision to suspend the proceedings.

279.4. The investigator shall inform the accused and defence counsel as well as the victim, his representative, the civil party, the defendant to the civil claim and their representatives of the resumption of proceedings.

Article 280. Discontinuation of criminal proceedings during the investigation

280.1. Criminal proceedings shall be discontinued on the basis of a reasoned decision by the investigator in the circumstances provided for in Articles 39-41 and 46.5 of this Code.

280.2. The decision to discontinue the criminal proceedings shall contain the following information:

280.2.1. the date, time and place of the decision;

280.2.2. the investigator's family name, first name, father's name and title;

280.2.3. when and by whom the criminal proceedings were commenced;

280.2.4. the circumstances constituting grounds for the commencement of proceedings;

280.2.5. the facts determined during the investigation;

280.2.6. the circumstances which make it mandatory to discontinue the criminal proceedings;

280.2.7. the grounds for the decision to discontinue the proceedings, referring to one or more provisions of Articles 39-41 and 46.5 of this Code;

280.2.8. a note about the action taken on any restrictive measure adopted in the criminal case, on the attachment of property and on the material evidence.

280.3. If the grounds for discontinuing the proceedings concern separate criminal cases or separate persons, the proceedings shall be discontinued only insofar as they relate to them.

280.4. In the event of discontinuation of criminal proceedings in the circumstances provided for in Article 39.1.1, 39.1.2, 39.1.11 and 39.2 of this Code, it shall be prohibited to include in the decision provisions casting doubt on the innocence of the person against whom proceedings were discontinued.

280.5. Within 24 hours of the decision to discontinue the criminal proceedings, a copy thereof shall be sent to the prosecutor in charge of the procedural aspects of the investigation.

Article 281. Measures taken by the investigator after discontinuing criminal proceedings

281.1. The investigation shall send copies of the decision to discontinue criminal proceedings to the suspect or the accused, his defence counsel, the victim, the civil party, the defendant to the civil claim and their representatives.

281.2. The persons mentioned in Article 281.1 of this Code shall be informed of their right to take cognisance of the case file and of the procedure for lodging a complaint against the decision to discontinue criminal proceedings.

281.3. The right of the persons mentioned in Article 281.1 of this Code to take cognisance of the case file shall be secured in accordance with Articles 284-286 of this Code.

Article 282. Complaint against the decision to discontinue criminal proceedings

282.1. A complaint against the decision to discontinue criminal proceedings may be lodged by the accused, his defence counsel, the victim, the civil party, the defendant to the civil claim or their representatives, within 10 (ten) days of receipt of the copy of the decision, with the prosecutor in charge of the procedural aspects of the investigation or the court exercising judicial supervision.

282.2. A complaint against a refusal by the prosecutor in charge of the procedural aspects of the investigation to act upon a complaint concerning discontinuation of the criminal proceedings may be lodged with the court exercising judicial supervision.

Article 283. Resumption of discontinued criminal proceedings

283.1. Proceedings shall be resumed only if the decision to discontinue them is overturned and if the time limit for bringing a prosecution has not expired.

283.2. The suspect or the accused, his defence counsel, the victim, the civil party, the defendant to the civil claim or their representatives shall be informed of the resumption of the proceedings in writing.

Chapter XXXVIII

DRAWING UP OF THE INDICTMENT AND TRANSFER OF THE CASE TO THE COURT

Article 284. Presentation of the case file before the drawing up of the indictment

284.1. When the investigator deems that there is sufficient evidence to draw up the indictment and transfer the case to the prosecutor in charge of the procedural aspects of the investigation, he shall:

284.1.1. inform the accused, his defence counsel, the victim, the civil party, the defendant to the civil claim or their representatives of the end of the investigation;

284.1.2 specify a place and time for the parties to the criminal proceedings to take cognisance of the case file.

284.2. The investigator shall make arrangements for the victim, civil party, defendant to the civil claim or their representatives to take cognisance of the case file, on request, and for the accused and defence counsel to be able to do so without having to make a request.

284.3. If counsel for the accused or the representatives of the victim, civil party or defendant to the civil claim cannot attend at the appointed time, the investigator shall extend the arrangements for taking cognisance of the case file for 5 (five) days. If defence counsel or the representative fails to attend within this period, the accused shall be offered the opportunity to appoint, or reach an agreement with, another defence counsel, and the victim, civil party or defendant to the civil claim shall be given the opportunity to appoint another representative.

Article 285. Procedure for taking cognisance of the case file

285.1. In order to permit participants to take cognisance of the case file, the investigator shall present it in one or more volumes with numbered pages, each volume containing a list of the documents therein. Material evidence kept with the case file and attachments to the records of investigative procedures shall also be presented. Where the case file consists of several volumes, all the volumes shall be presented at the same time.

285.2. When acquainting the parties to the criminal proceedings with the case file, the investigator shall, at their request, show them any documents, photos, tapes or other information devices attached to the records, using the relevant technical apparatus.

285.3. The accused and his defence counsel shall take cognisance of the case file before the other parties to the criminal proceedings and shall have the right to do so together or separately. The victim, civil party and defendant to the civil claim shall have the right to take cognisance of the case file together with their representatives.

285.4. The investigator may not impose a time limit for taking cognisance of the case file. However, if parties to the criminal proceedings prolong this process unnecessarily the investigator may lay down a schedule for taking cognisance of the case file, bearing in mind the volume of the file and the time required to take cognisance of it.

285.5. Those acquainting themselves with the case file shall have the right to transcribe extracts from the requisite documents in the file, to make copies and to take photos.

285.6. The investigator shall not allow those acquainting themselves with the case file to transcribe extracts, make copies or take photos of documents concerning private, family, state, professional or commercial secrets.

Article 286. Record of the presentation of the case file

286.1. The investigator shall draw up a record of the presentation of the case file, stating the date, time and place of the presentation, his family name, first name, father's name and title, the family names and first names of those taking cognisance the case file, and the documents confirming the authority of defence counsel and the representatives of the victim, civil party and defendant to the civil claim.

286.2. A separate record of the presentation of the case file to each participant in the criminal proceedings shall be drawn up. Where defence counsel or representatives take cognisance of the file together with the person whom they represent, a single record of the presentation of the case file to them shall be drawn up.

286.3. The record of the presentation of the case file shall indicate the volumes presented and the number of pages in each volume, as well as any material evidence and attachments to the records of the investigative procedures.

286.4. The date, hour and minute of the start and end of the presentation for each day concerned shall be given in the record.

286.5. Oral requests made after the presentation of the case file shall be included in the record.

Article 287. Filing of applications after the presentation of the case file

287.1. After the presentation of the case file the investigator shall ascertain whether the accused, defence counsel, the victim, the civil party, the defendant to the civil claim or their representatives wish to file applications concerning the conduct of additional investigative procedures or the taking of new procedural decisions. At their request, parties to the criminal proceedings may be allowed 48 hours to prepare and file a written application.

287.2. The investigator shall make a reasoned decision as to the complete or partial refusal of an application and, within 48 hours of the filing of the application, transmit a copy of the decision to the applicant. The case file may not be transferred to the prosecutor in charge of the procedural aspects of the investigation before a decision has been taken on any application.

287.3. Within 48 hours of transmission of the copy of the decision refusing an application to conduct additional investigative procedures or take new procedural decisions, a complaint against this decision may be lodged with the prosecutor in charge of the procedural aspects of the investigation.

287.4. If the prosecutor in charge of the procedural aspects of the investigation dismisses a complaint against refusal of an application concerning a case sent to court, this shall not prevent the application from being brought before the court.

Article 288. Presentation of the case file after allowing an application

Regardless of the applicant and of whose interests are concerned, after an application has been allowed the investigator shall permit the accused, defence counsel, the victim, the civil party, the defendant to the civil claim and their representatives to take cognisance of the part of the case file relevant to the application.

Article 289. Indictment

289.1. After fulfilling the requirements of Articles 284-288 of this Code, the investigator shall draw up the indictment.

289.2. The following shall be stated in the introductory part of the indictment:

289.2.1. the date, time and place at which the indictment was drawn up;

289.2.2. the family name, first name, father's name and title of the investigator drawing up the indictment;

289.2.3. general information on the criminal case in which the indictment is drawn up (when, on which grounds and by whom the proceedings were initiated; when, by whom and against whom charges were brought; when, by whom, concerning whom and which restrictive measures were chosen in the case; when, by whom and on which grounds the proceedings were suspended, discontinued and resumed).

289.3. The following shall be stated in the part of the indictment setting out the facts and reasons:

289.3.1. the place, time, means, motives, results and other important particulars of the offence;

289.3.2. evidence proving the guilt of the accused;

289.3.3. arguments raised by the accused in his defence and collected during verification of those arguments;

289.3.4. the circumstances of the accused;

289.3.5. the circumstances of the victim;

289.3.6. aggravating or mitigating circumstances.

289.4. The final part of the indictment, giving information about the accused and the relevant articles of criminal law, shall contain a statement of the charges.

289.5. The indictment shall contain references to the material collected in the criminal case and to the pages of the case file.

289.6. The investigator shall sign the indictment, stating the place and time.

289.7. A list of persons who, in the investigator's opinion, should be summoned to appear at the court hearing shall be added to the indictment. In this list the investigator shall note the locations of those summoned and the case file documents containing their testimony or opinions.

289.8. The following information shall be added to the indictment:

289.8.1. the period for which the accused is detained on remand;

289.8.2. any material evidence and the place where it is kept;

289.8.3. measures taken to satisfy the civil party's claim and any confiscation of property;

289.8.4. court expenses.

Article 290. Examination of the indictment by the prosecutor

290.1. After signing the indictment the investigator shall send it to the prosecutor in charge of the procedural aspects of the investigation on the same day.

290.2. The prosecutor in charge of the procedural aspects of the investigation shall examine the case file received with the indictment to verify the following:

290.2.1. proof of the commission of the offence charged, and the fact that it constitutes a criminal offence;

290.2.2. proof of the accused's guilt;

- 290.2.3. inclusion of all offences committed by the accused in the counts of the indictment;
 - 290.2.4. inclusion in the proceedings of all known participants in the offence;
 - 290.2.5. the existence of any grounds for discontinuing the criminal proceedings;
 - 290.2.6. the correct classification of the offences committed by the accused;
 - 290.2.7. the correctness of the investigator's choice of restrictive measure;
 - 290.2.8. that measures have been taken to secure the civil claim and any possible confiscation of property;
 - 290.2.9. that measures have been taken to detect conditions conducive to commission of the offence and eliminate these;
 - 290.2.10. the thorough, full and objective investigation of the circumstances of the offence;
 - 290.2.11. the conformity of the indictment drawn up by the investigator with the requirements of Article 289 of this Code;
 - 290.2.12. that the investigation has been conducted in accordance with the provisions of this Code.
- 290.3. Within 5 (five) days of receiving the case file with the indictment, the prosecutor in charge of the procedural aspects of the investigation shall take one of the following decisions:
- 290.3.1. deem that there is sufficient evidence to send the criminal case to court and confirm the indictment;
 - 290.3.2. on his own responsibility, exclude individual counts from the indictment, alter the classification of the offence to a less serious one in accordance with criminal law, and confirm the indictment with these changes;
 - 290.3.3. return the case file to the investigator with instructions to conduct an additional investigation or revise the indictment;
 - 290.3.4. suspend the criminal proceedings;
 - 290.3.5. discontinue the criminal proceedings.
- 290.4. Where there are grounds for making additions to the indictment, or for replacing the charge with a significantly different or more serious one in the light of the facts, the prosecutor in charge of the procedural aspects of the investigation shall return the case file to the investigator so that he may announce the additional or amended charge to the accused.
- 290.5. The prosecutor in charge of the procedural aspects of the investigation of the criminal case on which the file was received with the indictment shall be entitled to take the following measures on his own initiative:
- 290.5.1. to cancel or change the restrictive measure chosen by the investigator;
 - 290.5.2. if necessary, where a restrictive measure has not been chosen by the investigator, to choose one of these measures or to make submissions to the court concerning the choice of arrest as a restrictive measure.

Article 291. Changes made by the prosecutor to the list of persons to be summoned to attend the court hearing

- 291.0. The prosecutor in charge of the procedural aspects of the investigation:
- 291.0.1. before sending the case to the court, may delete names from or add names to the list of persons to be summoned to attend the court hearing drawn up by the investigator;
 - 291.0.2. may not exclude from this list the accused, his defence counsel or his legal representative, the victim if he possesses legal capacity, the civil party, the defendant to the civil claim or their representatives and legal representatives.

Article 292. Transfer of the criminal case to the court

292.1. After confirming the indictment, the prosecutor in charge of the procedural aspects of the investigation shall send the criminal case file without delay to the relevant court, adding sufficient copies of the indictment for the parties to the criminal proceedings.

292.2. The prosecutor in charge of the procedural aspects of the investigation shall immediately inform the accused and his legal representative, the victim, the civil party, the defendant to the civil claim and their representatives and legal representatives that the case has been referred to the court and that they are henceforth entitled to submit any application or complaint to the court.

292.3. The prosecutor in charge of the procedural aspects of the investigation shall also ensure that the accused and defence counsel are provided with certified copies of the indictment and additions. If changes were made to the indictment and its additions, only the last version of the indictment shall be provided.

292.2. If the accused and defence counsel do not know the language in which the criminal proceedings are held, they shall be given translations of the certified copies of the indictment and additions to it, signed by the translator, together with the copies of these documents in the language in which the trial is to be held.

Chapter XXXIX

SIMPLIFIED PRE-TRIAL PROCEEDINGS CONCERNING OBVIOUS OFFENCES WHICH DO NOT POSE A MAJOR PUBLIC THREAT

Article 293. Lodging of a complaint about an obvious offence which does not pose a major public threat

293.1. A complaint about an obvious offence which does not pose a major public threat shall be lodged in written or verbal form, in respect of the offences provided for in Article 214.4 of this Code, with the preliminary investigator, the investigator or the prosecutor in charge of the procedural aspects of the investigation, by the victim or his representative or legal representative.

293.2. If a complaint about an obvious offence which does not pose a major public threat is lodged in verbal form with the preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation, a record of the fact shall be drawn up and signed by the person lodging the complaint and the person drawing up the record.

293.3. A written complaint about an obvious offence which does not pose a major public threat and the record of a verbal complaint shall state the following:

293.3.1. information about the person lodging the complaint (family name, first name, father's name, year of birth, address and occupation or title);

293.3.2. information about the offence committed (which particular offence under criminal law was committed, where, when and how it was committed, and any damage caused at the time, including the amount of pecuniary damage assessed);

293.3.3. by whom the offence under criminal law was committed (family name, first name, father's name and address) and how it is ascertained that the offence was committed by this person;

293.3.4. statements by witnesses and other persons willing to testify (family name, first name, father's name and address of the persons concerned), documents and other evidence of the circumstances of the offence referred to in the complaint;

293.3.5. a request that the person who committed the offence be charged;

293.3.6. the date (year, month and day) and place at which the complaint is lodged;

293.3.7. the signature of the person lodging the complaint.

293.4. A person lodging a complaint about an obvious offence which does not pose a major public threat shall be warned of the criminal responsibility incurred for intentionally making false statements, which shall be noted in the complaint. If the complaint is made verbally, the warning shall be noted in the record and shall be signed by the person lodging the complaint and the person drawing up the record.

Article 294. Decisions concerning a complaint about an offence which does not pose a major public threat

294.1. The preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation shall take the following measures:

294.1.1. immediately register and examine the complaint about an obvious offence which does not pose a major public threat;

294.1.2. on coming to the conclusion that there are grounds to bring a prosecution in accordance with Article 38 of this Code, initiate simplified pre-trial proceedings within 24 hours of the receipt of the complaint, annotating the written complaint or the record of the verbal complaint accordingly;

294.1.3. on coming to the conclusion that there are no grounds to bring a prosecution in accordance with Article 38 of this Code, decide not to initiate simplified pre-trial proceedings within 24 hours of the receipt of the complaint, giving the reasons for his decision;

294.1.4. on coming to the conclusion that the complaint should be sent to the relevant court or the relevant investigating authority, carry out investigative procedures which cannot be delayed in order to record evidence of the offence (examination of the scene of the offence, removal and examination of objects discovered during this procedure) and interview witnesses to the offence, within 24 hours of the receipt of the complaint, and on his own initiative send the complaint together with all the material collected to the court or the investigating authority, as the case may be.

294.2. A preliminary investigation taking the form of simplified pre-trial proceedings concerning an obvious offence which does not pose a major public threat shall be carried out in accordance with the rules laid down in Articles 214 and 215 of this Code.

294.3. On examining a complaint about an obvious offence which does not pose a major public threat, or during the preliminary investigation of such an offence in the form of simplified pre-trial proceedings, where it is necessary to perform investigative measures which cannot be carried out under the simplified pre-trial procedure, the prosecutor in charge of the procedural aspects of the investigation may, at the request of the preliminary investigator or investigator or on his own initiative, decide to open a criminal case and entrust the conduct of the investigation to the appropriate investigating authority.

294.4. The preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation shall:

294.4.1. inform in writing the person who lodged the complaint about an obvious offence which does not pose a major public threat, of the opening of simplified pre-trial proceedings concerning his complaint;

294.4.2. on deciding not to open simplified pre-trial proceedings concerning a complaint about an obvious offence which does not pose a major public threat, ensure that a copy of the decision is presented or sent by post, within 3 (three) days, to the person who lodged the complaint.

Article 295. Rules governing simplified pre-trial proceedings concerning obvious offences which do not pose a major public threat

295.1. An investigation in the form of simplified pre-trial proceedings shall be conducted within 10 (ten) days of the receipt of a complaint about an obvious offence which does not pose a major public threat by the preliminary investigator, investigator or prosecutor in charge of the procedural aspects of the investigation.

295.2. During simplified pre-trial proceedings concerning obvious offences which do not pose a major public threat, in order to ensure that the court examines the case thoroughly, fully and objectively, the preliminary investigator shall determine the circumstances of the offence, the identity of the culprit and other necessary facts by questioning the victim, the person who committed the offence under criminal law, witnesses and others, and by seeking the necessary information,.

295.3. If the measures stipulated in Article 295.2 are not sufficient for the case to be brought to trial, the preliminary investigator may, during the simplified pre-trial proceedings, conduct investigative procedures such as searches, seizures, body searches, examination of places and corroborative experiments in order to collect the necessary evidence.

295.4. The procedures provided for in Article 295.3 of this Code may be performed by the preliminary investigator in the following circumstances:

295.4.1. if they themselves are unable to adduce the necessary evidence or give information about it, at the request of the person lodging a complaint, his representative or legal representatives, the person who committed the an offence under criminal law or his defence counsel;

295.4.2. on instructions from the prosecutor in charge of the procedural aspects of the investigation.

295.5. During simplified pre-trial proceedings concerning obvious offences which do not pose a major public threat, while conducting investigative procedures, the preliminary investigator shall comply with the articles of this Code laying down the rules governing conduct of those investigative procedures.

Article 296. Final record of the results of simplified pre-trial proceedings concerning obvious offences which do not pose a major public threat

296.1. The investigator shall draw up a final record of the results of simplified pre-trial proceedings concerning an obvious offence which does not pose a major public threat.

296.2. The final record of the results of the pre-trial proceedings shall state the following:

296.2.1. the date, time and place of the record:

296.2.2. the family name, first name, father's name and title of the preliminary investigator drawing up the record;

296.2.3. the family name, first name and father's name, year, month, day and place of birth, family status, workplace and title, place of registration and address of the person who lodged the complaint;

296.2.4. the family name, first name and father's name, year, month, day and place of birth, family status, workplace and title, place of registration and address of the person who committed the offence under criminal law;

296.2.5. the place where the offence was committed, the time, means used and motive, the outcome and information on other important facts;

296.2.6. evidence proving the guilt of the person who committed the offence under criminal law;

296.2.7. classification of the acts performed by the person who committed the offence, with reference to the relevant articles of criminal law;

296.2.8. the list of persons to be summoned to the court hearing.

296.3. After the final record of the results of the pre-trial proceedings has been signed, the preliminary investigator shall take the following steps:

296.3.1. allow the person who committed the offence under criminal law, his defence counsel or legal representative, the victim, the civil party, the defendant to the civil claim and their representatives to take cognisance of the file on the simplified pre-trial proceedings;

293.3.2. send all the material on the simplified pre-trial proceedings to the prosecutor in charge of the procedural aspects of the investigation.

Article 297. Measures taken by the prosecutor based on the results of a preliminary investigation in the form of simplified pre-trial proceedings concerning an obvious offence which does not pose a major public threat

297.0. After receiving the file on the simplified pre-trial proceedings, the prosecutor in charge of the procedural aspects of the investigation shall take the following measures:

297.0.1. immediately examine the material received and verify the lawfulness of and grounds for the measures taken by the preliminary investigator during examination of the complaint concerning an obvious offence which does not pose a major public threat and the simplified pre-trial proceedings relating to the same complaint;

297.0.2. if the evidence collected and circumstances researched during the preliminary investigation enable charges to be brought, confirm the bringing of charges on the final record drawn up by the preliminary investigator concerning the results of the simplified pre-trial proceedings and send all the material to the court;

297.0.3. if the evidence collected is not sufficient to bring charges, decide whether to open a criminal case on the basis of the file on the simplified pre-trial proceedings and order the conduct of an investigation by the relevant investigating authority;

297.0.4. if there are circumstances which rule out a prosecution, decide to discontinue the prosecution of the person who committed an offence under criminal law;

297.0.5. inform those who took cognisance of the file on the simplified pre-trial proceedings about the decision he takes.

SECTION EIGHT

PROCEEDINGS IN THE COURT OF FIRST INSTANCE

Chapter XL

INITIAL EXAMINATION OF CRIMINAL CASES, FILES ON SIMPLIFIED PRE-TRIAL PROCEEDINGS AND COMPLAINTS WITH A VIEW TO PRIVATE PROSECUTIONS

Article 298. Initial steps to be taken by the court on receipt of a criminal case file, a file on simplified pre-trial proceedings or a complaint with a view to a private prosecution

298.1. The criminal case file, file on simplified pre-trial proceedings or complaint with a view to a private prosecution shall be assigned to the judge or judges in accordance with the rule of equal division of cases among judges. In accordance with the rules, all the criminal case files or other prosecution material received by the court shall be divided among the judges taking into account the volume and quantity of cases and other matters assigned to them.

298.2. The preparatory hearing of the court shall be held:

298.2.1. within 15 (fifteen) days of the court's receipt of the criminal case file;

298.2.2. within 7 (seven) days of the court's receipt of the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution.

298.3. The court shall inform the accused, defence counsel, the public prosecutor (in the event of a public or semi-public prosecution), the victim, the victim bringing a private prosecution (in the event of a private prosecution), the civil party, the defendant to the civil claim or their representatives of the receipt of the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution, as the case may be, and about the holding of the preparatory hearing of the court, according to the following rules:

298.3.1. in respect of a criminal case, at least 7 (seven) days before the preparatory hearing of the court;

298.3.2. in respect of simplified pre-trial proceedings or a complaint with a view to a private prosecution, at least 3 (three) days before the preparatory hearing of the court.

298.4. When fulfilling the requirements of Article 298.3 of this Code, the court shall send to the aforementioned persons a copy of the indictment, the final record of the results of the simplified pre-trial proceedings or the complaint with a view to a private prosecution, as the case may be, together with notification of the following:

298.4.1. the receipt of the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution, as the case may be (giving the family name, first name and father's name of the accused, the substance of the charge against him as well as the family names and titles of the judges making up the court);

298.4.2. an explanation of the rights and duties of the person to whom the notification is sent, including an explanation of the rules and time-limits for submitting petitions and applications to the court;

298.4.3. the appointed time to come to the court to attend its preparatory hearing.

298.5. Before conducting the preparatory hearing of the court, the judges who have been assigned the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution shall study the documents received, including any additional documents, applications and petitions submitted by the parties to the proceedings.

Article 299. Preparatory hearing by the court

299.1. The preparatory hearing of the court shall consist of initial questioning to verify the possibility of scheduling the court's examination of the substance of the charge brought in the criminal case, the simplified pre-trial proceedings or the complaint with a view to a private prosecution, with the participation of the parties.

299.2. The order of business of the preparatory hearing shall be determined by the court. The court may consider proposals from the parties regarding the order of the business of its preparatory hearing.

299.3. In all cases, during the preparatory hearing of the court with the participation of the parties to the proceedings, the following matters shall be examined:

299.3.1. whether the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution received by the court are within its jurisdiction or not;

299.3.2. whether the requirements of this Code were violated during the investigation;

299.3.3. whether the content of the complaint with a view to a private prosecution complies with the provisions of Article 293.3.1-293.3.7 of this Code;

299.3.4. whether there are grounds for suspending or discontinuing the criminal proceedings;

299.3.5. whether there are grounds for choosing, altering or cancelling a restrictive measure in respect of the criminal case;

299.3.6. whether there are grounds for the court's examination of the criminal case concerning a serious or very serious offence to be conducted with the participation of a jury.

299.4. During the preparatory hearing decisions shall also be taken on the following matters:

299.4.1. whether to allow or dismiss any requests or objections submitted;

299.4.2. the list of evidence to be presented by the prosecution and the defence during the court's examination of the case;

299.4.3. the exclusion of material which is inadmissible as evidence from the court's examination of the case;

299.4.4. further action on the criminal case, the simplified pre-trial proceedings or the complaint with a view to a private prosecution.

299.5. During the consideration of any written or oral applications and objections, regardless of which party's request is being examined, the parties to the proceedings shall have the right to express their opinions. If the court dismisses a request, it may be submitted again during the court's examination of the case.

299.6. During the preparatory hearing of the court the relevant steps shall be taken in the following order:

299.6.1. during the court examination the public prosecutor or the victim bringing a private prosecution shall present a list of evidence concerning the criminal case, the simplified pre-trial proceedings or the complaint with a view to a private prosecution which they intend to examine during the court's hearing of the case;

299.6.2. defence counsel (or if his services are refused, the accused himself) and the victim, the civil party and the defendant to the civil claim, either themselves or with the assistance of their representatives, shall present a list of evidence relevant to the defence of their legal interests, shall submit requests for the summons of any persons to the court hearing (stating the family name, first name, father's name and address) and their questioning as witnesses, and shall explain with what aim the evidence they indicate is to be examined by the court and which circumstances can be determined with the aid of this evidence during the court's examination of the case.

299.7. During the preparatory hearing:

299.7.1. the court shall have the right to dismiss requests connected with the submission of evidence only if it is not relevant to the case or is considered inadmissible;

299.7.2. if the evidence is admissible from a formal point of view, but is considered irrelevant to the case by the court, the defence may present it to the court on its own account.

299.8. If the victim bringing a private prosecution repeatedly fails to attend the preparatory hearing of the court without informing the court in advance of good reasons for doing so, this shall be deemed equivalent to withdrawal of the charges and shall be considered by the court as grounds for declining jurisdiction in the complaint with a view to a private prosecution.

299.9. The preparatory hearing may be conducted without the accused being present in the following circumstances:

299.9.1. if the accused repeatedly refuses to come to the court or avoids doing so;

299.9.2. if, at the request of the accused, it is deemed legally admissible to examine the case in his absence.

299.10. The participation of defence counsel in the court's preparatory hearing shall be obligatory (if the person whom he represents does not refuse his assistance or if there is a circumstance which makes his participation in the proceedings obligatory).

299.11. If the parties to the proceedings have been informed in time about the court's preparatory hearing, their failure to attend the preparatory hearing, bearing in mind the provisions of Article 299.8 and 299.9 of this Code, shall not preclude the holding of this hearing and the taking of the appropriate decision.

Article 300. Types of decision taken as a result of the court's preparatory hearing

300.1. One of the following decisions shall be taken as a result of the court's preparatory hearing:

300.1.1. to commit the accused for trial and set down the case for a hearing;

300.1.2. to agree to deal with the complaint lodged with a view to a private prosecution and set down the case for a hearing;

300.1.3. to refuse to deal with the complaint lodged with a view to a private prosecution;

300.1.4. to send the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution to the relevant court;

300.1.5. to discontinue examination of the criminal case file or the file on simplified pre-trial proceedings and return them to the prosecutor in charge of the procedural aspects of the investigation;

300.1.6. to suspend the conduct of the criminal case, the simplified pre-trial proceedings or the proceedings on the complaint with a view to a private prosecution;

300.1.7. to discontinue the conduct of the criminal case or the simplified pre-trial proceedings.

300.2. As well as taking the decisions provided by Article 300.1.1, 300.1.5 and 300.1.6 of this Code, the court shall take the following steps:

300.2.1. consider the grounds for applying a restrictive measure to the accused or not;

300.2.2. in the event of a restrictive measure being chosen, consider whether or not there are grounds for the particular type of restrictive measure adopted;

300.2.3. give a decision on the matter of the restrictive measure.

300.3. As well as taking the decision provided for in Article 300.1.5 of this Code, the court may take a special decision in respect of persons who seriously violated the provisions of Articles 303.3 of this Code during the pre-trial proceedings.

300.4. Copies of the decisions taken at the court's preparatory hearing shall be given (or sent by post) to the following persons within 3 (three) days:

300.4.1. to the accused, defence counsel, the public prosecutor, the victim (or victim bringing a private prosecution), the civil party, the defendant to the civil claim or their representatives, in the case of the decisions provided for in Article 300.1.1, 300.1.3 and 300.1.5 of this Code;

300.4.2. to the victim bringing a private prosecution, the person in respect of whom the complaint was made and their representatives in the case of the decision provided for in Article 300.1.2 and 300.1.3.

300.5. Complaints or appeals against the decisions provided for in Article 300.1.3, 300.1.6-300.1.8 may be lodged in accordance with the provisions of Articles 381, 383 and 384 of this Code.

Article 301. Setting the case down for hearing

301.1. The case shall be set down for hearing in the court's decision on the results of its preparatory hearing in the following circumstances:

301.1.1. if there are no circumstances in the criminal case file, the file on simplified pre-trial proceedings or the file on the complaint with a view to a private prosecution which render the court examination impossible;

301.1.2. where the procedural form of the indictment, the final record of the results of the simplified pre-trial proceedings or the complaint with a view to a private prosecution is complied with;

301.1.3. where the pre-trial proceedings are conducted without any of the serious violations provided for in Article 303.3 of this Code.

301.2. The decision to commit the accused for trial and set the case down for hearing shall state the following:

301.2.1. the name of the court and the members of the court (first name, family name and father's name of each judge);

301.2.3. family name, first name and father's name of the accused;

301.2.4. classification of the offence with which the accused is charged under the relevant article of criminal law;

301.2.5. a decision on adopting, maintaining, annulling or altering a restrictive measure and taking steps to secure compensation for the damage caused;

301.2.6. decisions on any objections, requests and other applications submitted by the parties to the proceedings;

301.2.7. the members of the court and, where appropriate, the number of jurors to be summoned to participate in the selection of the jury;

301.2.8. allowing the person chosen by the accused to act as defence counsel or appointing defence counsel for the accused;

301.2.9. the list of persons to be summoned before the court for its examination of the case;

301.2.10. where it is legally admissible to examine the case in the absence of the accused, the grounds for doing so without the participation of the accused;

301.2.11. information on the place and time of the court's examination of the case;

301.2.12. the grounds for hearing the case in camera in the circumstances provided for in this Code;

301.2.13. the choice of language of the conduct of the criminal proceedings.

301.3. The decision to deal with the complaint lodged with a view to a private prosecution and set the case down for hearing shall indicate the relative provisions of Article 301.2-301.2.4, 301.2.6-301.2.12 of this Code.

301.4. The case shall be set down for hearing within the following time-limits:

301.4.1. for the hearing of a criminal case, within 15 (fifteen) days of the court's preparatory hearing;

301.4.2. for the examination of the file on simplified pre-trial proceedings or a complaint with a view to a private prosecution, within 7 (seven) days of the court's preparatory hearing.

301.5. After the case has been set down for hearing, the court president shall give the necessary instructions to the registry to take measures relating to the organisation of the hearing. Those persons whose participation in the court's examination of the case is provided for shall be summoned to the hearing in accordance with the rules laid down in Article 226 of this Code.

Article 302. Refusal by the court to examine a complaint with a view to a private prosecution

302.1. The court shall refuse to examine a complaint lodged with a view to a private prosecution,, on the basis of the results of the preparatory hearing, in the following circumstances:

302.1.1. if the complaint does not fall within the court's jurisdiction;

302.1.2. if the complaint is lodged by a person who has no right to bring a private prosecution ;

302.1.3. if the substance of the complaint fails to meet the requirements of Article 293.3.1-293.3.7 of this Code;

302.1.4. if the time limit for bringing criminal charges has expired;

302.1.5. if the act in respect of which the complaint was lodged has to be the subject of a public or semi-public prosecution;

302.1.6. if the criminal act or the act in respect of which the complaint was lodged does not have the ingredients of a criminal offence;

302.1.7. if the complaint is groundless and if the evidence does not support the complainant's allegations;

302.1.8. if the complainant withdraws the complaint and reaches a friendly settlement with the accused, or if he repeatedly fails to attend the preparatory hearing of the court without good reason.

302.2. A court refusing to examine a complaint lodged with a view to a private prosecution on the basis of the results of the preparatory hearing shall take decisions on the following:

302.2.1. referring the complaint to the relevant court in the circumstances provided for in Article 302.1.1 of this Code;

302.2.2. sending the complaint for examination to the relevant investigating authority in the circumstances provided for in Article 302.1.5 of this Code.

302.2.3. refusing to deal with the complaint in the circumstances provided for in Article 302.1.2-302.1.4, 302.1.6-302.1.8 of this Code.

302.3. If at the preparatory hearing it is determined that the criminal case lies outside the jurisdiction of the court, the court shall decide to refer the criminal case to the relevant court, giving the legal grounds for its decision and naming the court.

Article 303. Discontinuing the examination of a criminal case file or a file on simplified pre-trial proceedings and returning it to the prosecutor

303.1. If at the preparatory hearing it is established that serious violations concerning the substance of the criminal case or the file on simplified pre-trial proceedings which have not been remedied and cannot be lawfully, were committed during the pre-trial proceedings, the court shall discontinue its examination of the criminal case file or the file on simplified pre-trial proceedings and return it to the prosecutor in charge of the procedural aspects of the investigation.

303.2. The court shall discontinue its examination of the criminal case file or the file on simplified pre-trial proceedings and return it to the prosecutor in charge of the procedural aspects of the investigation on the basis of a reasoned decision.

303.3. The decision to discontinue examination of the criminal case file or the file on simplified pre-trial proceedings and return the file to the prosecutor in charge of the procedural aspects of the investigation shall be made if the following serious violations take place:

303.3.1. violation of the defence rights of the accused;

303.3.2. violation of the right of the accused to use his mother tongue or to use the assistance of an interpreter if he does not know the language in which the criminal proceedings are conducted;

303.3.3. conduct of the pre-trial proceedings by a person who should be objected to or should request to withdraw;

303.3.4. if the indictment on the criminal case or the final record of the results of the simplified pre-trial proceedings are not included among the material presented to the court;

303.3.5. if the indictment on the criminal case or the charge brought in the final record of the results of the simplified pre-trial proceedings is not confirmed by the prosecutor in charge of the procedural aspects of the investigation;

303.3.6. if the indictment on the criminal case or the final record of the results of the simplified pre-trial proceedings does not comply with, respectively, Articles 289 and 290.3.2 or 296.2 of this Code;

303.3.7. if the accused does not know the language in which the criminal proceedings are conducted and has not been given a copy of the indictment translated into his mother tongue;

303.3.8. if the requirements of, respectively, Articles 284-286, and 288 or 296.3.1 relating to the duty to ensure acquaintance with the file on the pre-trial proceedings are violated;

303.3.9. if the pre-trial proceedings are conducted in the form of a preliminary investigation as simplified pre-trial proceedings, in spite of the fact that there are circumstances indicating the need to conduct them in the form of an investigation.

303.4. The decision to discontinue examination of the criminal case file or the file on simplified pre-trial proceedings and return it to the prosecutor in charge of the procedural aspects of the investigation shall state the grounds for the decision.

303.5. If examination of the criminal case file or the file on simplified pre-trial proceedings is discontinued and the case is returned to the prosecutor in charge of the procedural aspects of the investigation, the investigation period shall be calculated from the moment the file is received by the prosecutor's office and shall be added to the period calculated for the pre-trial proceedings conducted previously.

Article 304. Suspension of proceedings in a criminal case, simplified pre-trial proceedings or proceedings on a complaint with a view to a private prosecution

304.1. At the preparatory hearing, if the following circumstances are established, the court shall give a reasoned decision on the suspension of the proceedings in the criminal case, the simplified pre-trial proceedings or the proceedings on the complaint with a view to a private prosecution:

304.1.1. if the accused goes into hiding and his whereabouts are unknown;

304.1.2. if the accused falls seriously ill, precluding his participation in the court's examination of the case;

304.1.3. if a question connected with verification of the constitutionality of the legal instrument applied during the criminal case, the simplified pre-trial proceedings or the proceedings on the complaint with a view to a private prosecution is raised before the Constitutional court of the Azerbaijan Republic.

304.2. The court proceedings may be suspended in respect of one or more accused persons on condition that this does not infringe the rights of the defence. In the circumstances provided for in Article 304.1 of this Code, if the proceedings in the case concerning one of the accused are suspended, the proceedings concerning another accused who is under arrest shall not be prolonged and in any case shall be renewed within 30 (thirty) days at the latest.

Article 305. Discontinuation of proceedings in a criminal case or simplified pre-trial proceedings

305.1. At the preparatory hearing, if the circumstances provided for in Article 39 of this Code are established, the court shall give a reasoned decision to discontinue the proceedings in the criminal case or the simplified pre-trial proceedings. If the circumstances which preclude prosecution relate to one part of the charges, the proceedings in the criminal case shall be discontinued only in respect of that part.

305.2. Any decision to annul restrictive measures decided during the investigation, measures to secure payment of compensation for damage and other coercive procedural measures shall be added to the decision to discontinue the proceedings in the criminal case, which shall also include a decision on the future of the material evidence.

Article 306. Decisions on matters connected with restrictive measures

306.1. In addition to giving the decisions provided for in Article 300.1.1, 300.1.5 and 300.1.6 of this Code on the results of the preparatory hearing, the court shall give decisions on the following:

306.1.1. the grounds for applying a restrictive measure to the accused or not;

306.1.2. if a restrictive measure is adopted, the grounds for adopting that particular type of restrictive measure;

306.1.3. maintaining, altering or annulling the restrictive measure applied to the accused.

306.2. After announcing the decision to discontinue examination of the criminal case and return it to the prosecutor in charge of the procedural aspects of the investigation, the court shall consider the question of extending the period of detention on remand of the accused in accordance with the provisions of this Code, under the following circumstances:

306.2.1. if the period of detention on remand of the accused, as a restrictive measure adopted during the preliminary investigation, expires within 7 (seven) days of the decision to discontinue examination of the criminal case and return it to the prosecutor in charge of the procedural aspects of the investigation;

306.2.2. if the public prosecutor in the criminal case applies to the court to extend the period of detention on remand of the accused.

Article 307. Special decisions on the results of the court's preparatory hearing

307.1. In connection with the results of the preparatory hearing, the court may, in addition to the decision to discontinue examination of the criminal case or the file on simplified pre-trial proceedings and return it to the prosecutor in charge of the procedural aspects of the investigation, give a special decision on persons who seriously violated the requirements of this Code during the pre-trial proceedings.

307.2. The special decision of the court shall indicate in respect of which criminal case or simplified pre-trial proceedings, and by whom, the special decision is given. It shall state in detail the nature of the case and exactly which of the serious violations provided for in Article 303.3 of this Code was committed and by whom.

307.3. The special decision given by the court shall be sent to the following persons in order for enforcement measures to be taken:

307.3.1. as regards an investigator, preliminary investigator or employee of the preliminary investigating authority: to the head of the relevant central government body of the Azerbaijan Republic;

307.3.2. as regards the prosecutor in charge of the procedural aspects of the investigation and the prosecutor's office investigator: to the Principal Public Prosecutor;

307.3.3. as regards the judges of the court of first instance: to the President of the Supreme Court of the Azerbaijan Republic.

307.4. The officials who receive the decision of the court shall take the following steps within 30 days of receiving it:

307.4.1. decide on the responsibility of those who have committed serious violations of the legislation of the Azerbaijan Republic;

307.4.2. inform the court of the measures taken.

Chapter XLI

GENERAL CONDITIONS GOVERNING COURT HEARINGS

Article 308. Prohibition of changes in the membership of the court during its examination of a case

308.1. The criminal case, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution shall be examined by the same body of judges.

308.2. If one of the judges is unable to continue to participate in the court's examination of the case, he shall be replaced by another judge and the examination of the criminal case, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution shall start again at the beginning, save in the circumstances provided for in Article 309 of this Code.

Article 309. The reserve judge

309.1. If a criminal case is examined by a bench of three judges and its examination is likely to last a long time, a reserve judge may be called upon to participate on the basis of a decision made at the court's preparatory hearing. The participation of the reserve judge shall also be allowed on the basis of a decision made by the court at the beginning of its examination of the case, immediately after the opening of the hearing.

309.2. The reserve judge shall participate in the court's examination of the case from the time the hearing is opened or the decision on his participation is made. If one of the judges withdraws, the reserve judge shall begin to enjoy the rights of a judge from the time of his inclusion among the members of the court.

309.3. A reserve judge participating in the case in place of a judge who has withdrawn shall have the right to request the renewal of any court procedure.

309.4. If the reserve judge taking part in place of a judge who has withdrawn does not request the renewal of court procedures, or once those procedures have been repeated at his request, the court shall continue its examination of the case.

Article 310. Keeping order in court

310.1. At the hearing, before the judges enter the courtroom, the court supervisor shall announce, "The court convenes". Immediately after this, all those participating in the hearing shall stand and only after the judges have taken their places may they be seated.

310.2. All those participating in the court's examination of the case or present in the courtroom shall abide by the following rules to maintain order:

310.2.1. comply with all the instructions of the court president and the requests of the court supervisor based thereon;

310.2.2. remain silent and observe the rules of cleanliness during the court hearing;

310.2.3. remain seated and not walk around the courtroom;

310.2.4. use photography, film, audio, video, computer and other recording techniques only with the permission of the court president;

310.2.5. speak, make requests and raise objections only with the permission of the court president;

310.2.6. stand up when the court president so requests and sit down only with his permission;

310.2.7. address the court with the words "Ladies and Gentlemen" and the judge with the words: "Your Honour";

310.2.8. not interrupt those making speeches at the hearing, provide explanations or make comments;

310.2.9. refrain from insulting and improper statements and actions as well as from asking leading questions during the questioning of the accused, the victim, the witnesses or other parties to the proceedings.

310.3. Persons wishing to participate in a public hearing of the court shall be allowed to enter the courtroom before the hearing or during the intervals between sittings if there are seats free in the room. Persons under 16 who are neither parties nor witnesses shall not be allowed to enter the courtroom. In order to ensure security during the hearing, the identity papers and effects of those admitted to the courtroom may be checked on the instructions of the court president.

310.4. Keeping order in court shall be the responsibility of the court supervisor. The court supervisor shall ensure that the rules set out in Article 310.2.1-310.2.9 are derogated from only with the permission of the court president, and shall act to prevent possible breaches.

310.5. Contempt of court during the conduct of the hearing in the circumstances determined by the legislation of the Azerbaijan Republic shall constitute grounds for criminal responsibility.

310.6. The following steps may be taken by court decision against those who commit serious breaches of order during court hearings, after prior warning, with the exception of public prosecutors and defence counsel:

310.6.1. a fine equivalent to 50 times the minimum wage;

310.6.2. detention for a period of 3 to 48 hours;

310.6.3. expulsion from the courtroom for the whole or part of the court's examination of the case.

310.7. A party to the proceedings who is permitted to return to the hearing by court decision shall have the right to become acquainted with the procedural measures that have taken place in his absence.

Article 311. Participation of the accused in the court's examination of the case and consequences of non-attendance

311.1. During the court's examination of the case, the accused shall participate in all the hearings of the court and shall enjoy the rights provided for in Article 91.5 and 91.6 of this Code.

311.2. A court may examine a case without the participation of the accused only in the following exceptional circumstances:

311.2.1. if the accused is outside the territory of the Azerbaijan Republic and intentionally avoids attendance at court;

311.2.2. if a person charged with an offence which does not pose a major public threat applies for the charges against him to be examined without his participation, on condition that this does not preclude a thorough, full and objective examination of all the circumstances connected with the criminal prosecution.

311.3. If the court examines the case without the participation of the accused, the participation of his defence counsel in the hearing shall be compulsory.

311.4. Save in the circumstances provided for in Article 311.2 of this Code, if the accused fails to attend the hearing, the court's examination of the case shall be postponed and the hearing shall be conducted at another time.

311.5. If the accused fails to attend the hearing without good reason, he may be forcibly brought to the hearing by court decision, and if there are grounds for it under this Code, a restrictive measure may be applied to him or an existing restrictive measure may be altered to a more serious one.

Article 312. Participation of defence counsel in the court's examination of the case and consequences of non-attendance

312.1. At the request of the accused or in the circumstances provided for in Article 92.3.2-92.3.13 of this Code, defence counsel shall participate in all the hearings of the court during the latter's examination of the case, and shall exercise the rights and fulfil the duties provided for in Article 92.9 and 92.11 of this Code.

312.2. A defence counsel who fails to attend the hearing may be replaced with the consent of the accused.

312.3. A defence counsel who fails to attend the hearing, but with good reason, shall inform the court of this before the start of the hearing. If defence counsel fails to attend the hearing, with good reason, the court's examination of the case shall be postponed and the hearing shall be conducted at another time.

312.4. If the participation of the defence counsel appointed by the accused is not possible for a long period (in any case no longer than 10 (ten) days) with good reason, the court may postpone its examination of the case, suggest that the accused choose another defence counsel and, in the event of his refusal, appoint a new defence counsel with the assistance of the relevant branch of the bar association. In postponing its examination of the case and deciding the replacement of defence counsel, the court shall take into consideration the expediency of such a decision (the time already spent on the court's examination of the case, the complexity of the proceedings, the time which will therefore be required by the new defence counsel to become acquainted with the file and other circumstances). The court shall provide sufficient time for the new defence counsel to become acquainted with the whole file. A defence counsel newly involved in a criminal case may apply for any procedures already conducted during the court's examination of the case before his involvement to be repeated.

312.5. If defence counsel fails to attend without good reason and without informing the court in advance and if his replacement at this hearing is impossible, the examination of the criminal case shall be postponed and the hearing conducted at another time.

312.6. If defence counsel repeatedly fails to attend the hearings and if his replacement at this hearing is impossible, the examination of the criminal case shall be postponed and the hearing conducted at another time. In this case, the court, in deciding the replacement of defence counsel under the provisions of Article 312.4 of this Code may raise the matter of the lawyer's disciplinary liability before the Bar Association of the Azerbaijan Republic.

Article 313. Participation of the defendant to the civil claim in the court's examination of the case and consequences of non-attendance

313.1. The defendant to the civil claim shall enjoy the rights provided for in Article 93.4 of this Code and shall participate in the hearings during the court's examination of the case in order to defend his rights and legal interests in connection with the claim.

313.2. If the defendant to the civil claim or his representative fails to attend the hearing, this shall not preclude the continuation of the court's examination of the case and the examination of the civil claim.

Article 314. Participation of the public prosecutor in the court's examination of the case and consequences of non-attendance

314.1. The public prosecutor shall participate in all the hearings during the court's examination of public or semi-public charges and shall exercise the rights and fulfil the duties provided for in Article 84.6 and 84.7 of this Code in order to uphold the charge brought in court.

314.2. During the court's examination of the case, the public prosecutor shall be guided by the requirements of the law and by his own conscience on the basis of the evidence examined by the court. If the charge brought against the accused during the pre-trial proceedings is not proved during the court's examination of the case, the prosecutor shall have the right to withdraw the charge. If the public prosecutor and the victim bringing a private prosecution withdraw the charges during the court's examination of the case (before the judges retire to the deliberation room of the court to give their final decision), the court shall discontinue the criminal prosecution in accordance with Article 43.1 of this Code.

314.3. If it is impossible for the public prosecutor to attend a hearing during the court's examination of the public or semi-public charges, with good reason, he shall inform the court of the fact before the start of the hearing. If the public prosecutor fails to attend the hearing, with good reason, and if it is impossible to replace him with another public prosecutor, the court's examination of the case shall be postponed and conducted at another time. The newly appointed public prosecutor shall be given time to prepare the defence of the charge in court.

314.4. If, during the court's examination of public or semi-public charges, the public prosecutor repeatedly fails to attend the hearing without informing the court in advance and without having good reason, and if his replacement at this hearing is impossible, the court shall have the right to raise the matter of the public prosecutor's disciplinary liability before the Principal Public Prosecutor of the Azerbaijan Republic.

Article 315. Participation of the victim (or victim bringing a private prosecution) in the court's examination of the case and consequences of non-attendance

315.1. The victim (or victim bringing a private prosecution) shall enjoy the rights provided for in Article 87.6 of this Code and shall have the right to participate in all court hearings during the court's examination of the case. In this case, he, as victim bringing a private prosecution shall also enjoy the rights provided for in Article 88.4 of this Code.

315.2. If the victim (or victim bringing a private prosecution) fails to attend a hearing on the criminal prosecution to be conducted in respect of public or semi-public charges, the court, after hearing the opinions of the parties to the proceedings, shall decide on the possibility of investigating all the circumstances connected with the criminal prosecution thoroughly, fully and objectively and making a reasoned final court decision without his participation. Where necessary, the court's examination of the case shall be postponed and the hearing conducted at another time.

315.3. If the victim (or victim bringing a private prosecution) repeatedly fails to attend a hearing during the court's examination of public or semi-public charges, then, at the request of one of the parties to the proceedings, the court's examination of the case shall be postponed again and the court hearing shall be conducted at another time. However, in such cases, if the victim (or victim bringing a private prosecution) fails to inform the court of his inability to attend the court hearing, with good reason, before the start of the hearing, the court may decide to have him brought before it by force.

315.4. If it is impossible for the victim bringing a private prosecution to attend a hearing, with good reason, during the court's examination of a complaint lodged with a view to a private prosecution, he shall inform the court of this before the start of the hearing. If the court considers the reason for his failure to attend to be valid, its examination of the criminal case shall be postponed and the hearing shall be conducted at another time.

315.5. If the victim bringing a private prosecution repeatedly fails to attend the court hearings, without good reason, during the court's examination of a complaint lodged with a view to a private prosecution, the proceedings shall be discontinued by decision of the court.

Article 316. Participation of the civil party in the court's examination of the case and consequences of non-attendance

316.1. In order to defend the claim he has filed, the civil party may exercise the rights provided for in Article 89.4 of this Code and participate in all the hearings during the court's examination of the case.

316.2. If the civil party or his representative fails to attend the hearing, the civil claim may be left unexamined. This shall not deprive the person claiming damages of the right to make the claim before the civil courts.

316.3. As regards the civil claim, the court shall:

316.3.1. examine the claim at the request of the civil party or his representative without the participation of the civil party or his representative during its examination of the case,.

316.3.2. examine the civil claim during its examination of the case, whether or not the civil party or his representative attends the hearing, if the civil claim is defended by the public prosecutor in accordance with the Article 181.7 of this Code.

Article 317. Decision as to the possibility of continuing the court's examination of the case without the participation of a witness, expert or specialist who fails to attend a court hearing

317.1. If a witness, expert or specialist summoned to a court hearing in accordance with Article 226.1-226.3 of this Code fails to attend, the court shall give a decision on whether to continue or postpone its examination of the case, after hearing the opinions of each of the parties to the proceedings in turn. If the absence of any of the persons mentioned does not preclude a thorough, full and objective investigation of all the circumstances connected with the criminal prosecution, the court's examination of the case may continue.

317.2. If the court decides to postpone its examination on the grounds of the non-attendance of those mentioned in Article 317.1 of this Code, it shall have the right to question the witnesses, experts, specialists, victim, civil party, defendant to the civil claim or their representatives who have attended. In this case, the witnesses, experts and specialists questioned after the postponement, during the court's examination of the criminal case, the file on simplified pre-trial proceedings or the complaint lodged with a view to a private prosecution may be called again if necessary, bearing in mind the opinion of the parties to the proceedings.

Article 318. Limits of the court's examination of a case

318.1. During the court's examination of a case, the criminal case file, the file on simplified pre-trial proceedings or the complaint lodged with a view to a private prosecution may be examined only within the limits of the charge laid against the accused or brought before the court. As a result of its examination, the court shall have the right to classify the act committed by the accused as a less serious offence and to remove specific points from the charge brought.

318.2. During the court's examination of the case, if the ingredients of a more serious offence are determined in the acts of the accused, the court shall suspend its examination of the charges at the request of the public prosecutor. In this event, the court shall give a reasoned decision on returning the criminal case or the file on simplified pre-trial proceedings, as the case may be, to the prosecutor in charge of the procedural aspects of the investigation in order to consider the matter of bringing another charge against the accused within 10 (ten) days. If, after that, a new charge is brought against the accused by the prosecutor in charge of the procedural aspects of the investigation, the court shall resume its examination of the case when this charge is read out at the hearing and shall continue it in the usual way.

318.3. In the circumstances provided in Article 318.2 of this Code, the court may simultaneously give a special decision on the investigator conducting the investigation and the prosecutor in charge of the procedural aspects of the investigation. This decision shall be sent to the head of the relevant government body of the Azerbaijan Republic and the Principal Public Prosecutor of the Azerbaijan Republic for the appropriate measures to be taken.

Article 319. Postponement of the court's examination of the case and suspension of the court proceedings

319.1. If any of those summoned to the hearing fail to attend, or if it is impossible for the court to examine the case because it needs to request fresh evidence on its own initiative or on an application by the parties to the proceedings, the court shall:

319.1.1. postpone its examination of the case, specifying the duration of the postponement;

319.1.2. take the necessary measures for the attendance of the person at the hearing or for a request for fresh evidence.

319.2. If the accused goes into hiding or becomes chronically or seriously ill and therefore cannot attend the hearing, the court shall suspend the criminal case, the simplified pre-trial proceedings or the proceedings concerning the complaint with a view to a private prosecution until the accused is found or recovers, and if possible, shall continue the hearing of other accused persons. If the separate conduct of its examination of the case prevents all the circumstances connected with the criminal prosecution from being investigated thoroughly, fully and objectively, the court shall suspend all the proceedings concerning the criminal case, the simplified pre-trial proceedings or the complaint with a view to a private prosecution, taking account of Article 304.2 of this Code.

319.3. Under the circumstances and rules provided for in Article 53.1.3 and 53.3.2 of this Code, the court shall order a search for an accused who is in hiding and shall send the decision made on this matter to the prosecutor in charge of the procedural aspects of the investigation so that he may supervise its execution.

Article 320. Decisions on matters regarding restrictive measures

During its examination of a case, the court may alter or annul any restrictive measure applied to the accused after hearing the submissions of the accused and his representative and the opinions of the public prosecutor and the victim (or victim bringing a private prosecution)

Article 321. Rules governing decision-making during the court's examination of a case

321.1. During the court's examination of a case, decisions shall be given on all matters to be decided by the court.

321.2. The following decisions, separately drawn up in the form of documents and signed by the whole court, shall be made in the deliberation room (or by the judge if the criminal case is examined by him alone):

321.2.1. on the discontinuation or suspension of the criminal case, the simplified pre-trial proceedings or the proceedings concerning the complaint with a view to a private prosecution;

321.2.2. on the choice, alteration or annulment of restrictive measures;

321.2.3. on any objections;

321.2.4. on the ordering or expert reports.

321.3. All other decisions given by the court during its examination of the case may be made on site after discussion among the judges and shall be included in the record of the hearing.

321.4. The decisions given by the court during its examination of the case shall be read out immediately. Save where otherwise provided for under this Code, these decisions shall become final as soon as they are read out.

Chapter XLII

OPENING OF THE COURT'S EXAMINATION OF A CASE

Article 322. Initial actions of the court on opening its examination of a case

322.1. The members of the court (or the judge, if the criminal case is examined by a single judge) shall enter the courtroom at the time appointed for the hearing and the judges shall take their places. After this, the following steps shall be taken in succession at the hearing:

322.1.1. the court president shall open the court's examination of the case and announce which criminal case, simplified pre-trial proceedings or complaint with a view to a private prosecution are to be examined;

322.1.2. on the instructions of the president, the court clerk shall inform the court of the presence of the parties to the proceedings and the witnesses, experts, specialists and interpreter at the hearing and state the reasons for absence given by absentees;

322.1.3. the president shall instruct the court supervisors to accompany the witnesses to the witnesses' room, to prevent them from talking among themselves or with others and to ensure decent conditions in the witnesses' room;

322.1.4. the president shall check who is participating in the hearing as an interpreter and explain to him his duties, rights and responsibilities under Article 99.4-99.6 of this Code;

322.1.5. the president shall explain to the parties to the proceedings attending the hearing their right to object to the interpreter and the grounds for objecting to the interpreter provided for in Article 117 of this Code;

322.1.6. in the event of an objection to the interpreter, the court shall decide whether or not to uphold this objection (to make the decision, the court shall retire to the deliberation room; on returning, it shall read out the decision and, after taking steps to ensure its execution, resume the hearing);

322.1.7. the president shall introduce the members of the court and the court clerk and explain the right to object to the judge, judges or the whole court, as well as to the court clerk, and the grounds for objection provided for in Articles 109 and 116 of this Code (these rules shall also be applied to the reserve judge if he participates in the hearing);

322.1.8. in the event of an objection to the judge, judges or the whole court, the president shall postpone the court hearing; the objection shall be examined on the grounds provided for in Article 109.3 - 109.6 of this Code; the decision on whether or not to uphold the objection shall be taken; the reasoned decision shall be read out by the president (if the objection is not upheld, the court shall continue its examination of the case; if the objection is upheld, the hearing shall be declared closed and the court's examination shall be postponed and resumed from the start only after the judge or the court has been replaced); in the event of an objection to the court clerk, the court shall retire to the deliberation room, decide whether or not to uphold the objection and, on returning, read out its reasoned decision (if the objection is upheld, the court clerk shall be replaced by another and the hearing shall continue);

322.1.9. the president shall establish the identity (family name, first name, father's name, year, month, day and place of birth and family status) of the accused (or of each accused in turn);

322.1.10. the president shall ascertain whether the accused has been given a copy of the indictment, the final record of the results of the simplified pre-trial proceedings or the complaint with a view to a private prosecution (if the identity of the accused is not established or if it is not established whether the said documents have been given to him, the court's examination of the case shall be postponed and resumed from the start only after these documents have been given to the accused);

322.1.11. the president shall explain to each accused his rights and duties under Article 91 of this Code;

322.1.12. the president shall introduce the victim, the civil party and the defendant to the civil claim (their family name, first name, father's name, year, month, day and place of birth, family status);

322.1.13. the president shall explain to each victim (or victim bringing a private prosecution), civil party and defendant to the civil claim their rights and duties under Articles 87-89 and 93 of this Code;

322.1.14. the president shall announce who (family name, first name, father's name, specialisation, title) is defending the public charges and shall explain the right of the parties to the proceedings to object to the public prosecutor and the grounds provided for in Article 112 of this Code for making such objections;

322.1.15. in the event of an objection to the public prosecutor, before retiring to the deliberation room, the court shall consult the public prosecutor and the accused and his defence counsel on this matter; it shall then retire to the deliberation room and decide whether or not to uphold the objection and, on returning, shall announce its reasoned decision (if the objection is upheld, the court's examination of the case shall be postponed and resumed only after the public prosecutor newly involved in the case has been given the opportunity to become acquainted with the file);

322.1.16. the president shall introduce defence counsel for the accused or defence counsels for the accused persons in turn (family name, first name, father's name, bar association and local branch in which they work);

322.1.17. the president shall explain to the parties to the proceedings the circumstances provided for in Article 114 of this Code which preclude the participation of defence counsel in the proceedings and shall determine whether or not there are any objections to defence counsel;

322.1.18. in the event of an objection to defence counsel, before retiring to the deliberation room, the court shall consult the parties to the criminal proceedings on this matter; it shall then retire to the deliberation room and decide whether or not to uphold the objection and, on returning, shall announce its reasoned decision (if the objection is upheld, the court's examination of the case shall be postponed and resumed only after the defence counsel newly involved in the case has been given the opportunity to become acquainted with the file);

322.1.19. the president shall introduce the legal representative as well as the representative of the victim (or the victim bringing a private prosecution), the civil party and the defendant to the civil claim and explain to the parties to the proceedings their right to object to the representative of the victim (or victim bringing a private prosecution), the civil party or the defendant to the civil claim under Article 114 of this Code and the grounds for such objections;

322.1.20. in the event of an objection to the representative of the victim (or victim bringing a private prosecution), the civil party or the defendant to the civil claim, the court, before retiring to the deliberation room, shall consult the parties to the proceedings, starting with the public prosecutor, the accused and defence counsel, on this matter; it shall then retire to the deliberation room and decide whether or not to uphold the objection and, on returning, shall announce its reasoned decision (if an objection to the representative of the victim (or victim bringing a private prosecution), the civil party or the defendant to the civil claim is upheld, the court's examination of the case shall be postponed and resumed only after the representative of the relevant person newly involved in the case has been given the opportunity to become acquainted with the file);

322.1.21. the president shall introduce in turn the specialist and the expert (family name, first name, father's name, education, scientific degree, title) assigned to the criminal case, the simplified pre-trial proceedings or the complaint with a view to a private prosecution;

322.1.22. the president shall explain to the parties to the proceedings the right to object to the specialist or expert and the relevant grounds for such objections provided for in Articles 117 and 118 of this Code;

322.1.23. in the event of an objection to the specialist or expert, the court, before retiring to the deliberation room, shall consult the parties to the proceedings, starting with the public prosecutor, the accused and defence counsel, on this matter; it shall then retire to the deliberation room and decide whether or not to uphold the objection and, on returning, shall announce its reasoned decision (if an objection to the expert is upheld, the court's examination of the case shall be postponed, and the court, taking into consideration the opinions of the parties to the proceedings, shall decide on the appointment of another expert; in the event of an objection to an expert who drew up an expert report during the investigation or an expert invited to the court to submit expert evidence on behalf of the defence, the president shall ask that party whether or not it wishes to appoint another expert at its own expense and, in the case of an affirmative answer, shall allot that party the time necessary to appoint a new expert; the court's examination of the case shall be resumed after the new expert has been given the opportunity to become acquainted with the necessary material and prepare his report; however, this period may not be longer than 15 (fifteen) days from the time the expert is appointed. After the resumption of the court's examination of the case, any objections to the newly invited expert shall be decided in the usual way; the above-mentioned provisions relating to objections to experts shall also be applied in the case of objections to specialists);

322.1.24. the president shall explain to the expert and specialist their rights and duties under Articles 96 and 97 of this Code respectively.

322.2. Upon completion of the initial actions in opening its examination of the case, the court shall begin to examine the parties' applications submitted before the court's investigation of the case.

Article 323. Submission of applications by the parties and decisions thereon before the start of the court's investigation of the case

323.1. Before the start of the court's investigation of the case, the president shall determine whether or not each of the parties to the proceedings in turn has any applications to make on the following matters:

323.1.1. on the requesting of fresh evidence and its addition to the criminal case file, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution;

323.1.2. on the summoning of additional witnesses, experts or specialists;

323.1.3. on the ordering of expert reports;

323.1.4. on the production of material evidence and documents.

323.2. The person submitting the application shall specify the reasons for which the additional evidence is necessary.

323.3. The president shall determine whether or not the parties to the proceedings have any applications to make concerning the exclusion from the court's examination of the case of any documents which are inadmissible as evidence.

323.4. Applications submitted by any party to the proceedings shall be discussed after the other parties' opinions have been heard.

323.5. The court shall allow applications submitted under Article 323.1 of this Code in the following circumstances:

323.5.1. if the purpose of the application is the examination of all circumstances that may be of significance for a thorough, full and objective investigation of all matters connected with the criminal prosecution;

323.5.2. if information and documents whose evidential value is in dispute were obtained by significantly violating requirements of this Code and other laws of the Azerbaijan Republic.

323.6. If the court dismisses an application, it shall give a reasoned decision on this matter. Applications that have been dismissed may be resubmitted depending on the further examination of the case.

323.7. The court shall have the right, on its own initiative, to give decisions on summoning witnesses to the hearing, ordering expert reports, requesting other evidence and excluding inadmissible documents from its examination of the case.

Chapter XLIII

THE COURT'S INVESTIGATION OF THE CASE

Article 324. Start of the court's investigation of the case

324.1. Upon completion of all the initial actions at the opening of the hearing and after examination of any objections or applications submitted under Articles 322 and 323 of this Code, the president shall announce the start of the court's investigation of the case.

324.2. The court's investigation of the case shall start with the following steps:

324.2.1. in connection with the examination of the criminal case file or the file on simplified pre-trial proceedings, the announcement by the public prosecutor of the concluding part of the indictment or the part of the final record of the results of the simplified pre-trial proceedings which concerns the bringing of charges:

324.2.2. in connection with the examination of the complaint lodged with a view to a private prosecution, the announcement of the complaint by the victim bringing a private prosecution or his representative.

324.3. After this, the president shall explain the following to the accused:

324.3.1. the substance of every charge brought against him;

324.3.2. the legal classification of the acts with which he is charged and the penalty that these acts carry under criminal law;

324.3.3. the grounds for and amount of the civil claim brought against the accused;

324.3.4. that the accused is not bound by his acknowledgement or denial of guilt during the pre-trial proceedings;

324.3.5. that the accused is not obliged to answer questions asked at the court hearing;

324.3.6. that the refusal of the accused to answer questions will not be held against him;

324.3.7. that the accused has the right to justify his answers.

324.4. The president shall then put the following questions to each of the accused:

324.4.1. whether he pleads guilty or not, if so whether completely or partially, and of which offence;

324.4.2. whether he accepts the civil claim brought against him, and if so, whether completely or partially.

324.5. After this, with the permission of the president, the parties to the proceedings shall have the right to clarify the answers of the accused to the questions asked under Article 324.4 of this Code.

Article 325. Sequence for examining evidence during the court's investigation of the case

325.1. After ascertaining whether the accused pleads guilty or not, the president shall explain to the parties the order in which evidence is to be taken during the court's investigation of the case (the order in which the accused, victim, witnesses and experts are to be questioned and other procedures are to be conducted).

325.2. During the court's investigation, the following order shall be observed in the taking of evidence:

325.2.1. the evidence presented by the prosecution shall be given in turn by the public prosecutor, the victim bringing a private prosecution or the victim, his representative, the civil party and his representative;

325.2.2. the evidence presented by the defence shall be given in turn by the accused, his defence counsel or legal representative, the defendant to the civil claim and his representative;

325.2.3. evidence requested on the initiative of the court shall be given in the above-mentioned order by the representatives of the prosecution, then of the defence.

325.3. The parties to the proceedings shall give evidence in the order provided for in Article 325.2 of this Code. The order for examining each item of evidence presented by the parties to the proceedings shall be determined by the person presenting it.

325.4. The order for examining each item of evidence requested on the initiative of the court shall be determined by the court after hearing the opinions of the parties to the proceedings.

325.5. The defence and then the court shall participate in the examination of the evidence presented by the prosecution; the prosecution and then the court shall participate in the examination of the evidence presented by the defence. Evidence ordered by the court shall be examined first by the prosecution and then by the defence. The court shall in all cases participate last in the examination of evidence.

325.6. In the case of cross-examination, the questions to the person called for examination shall first be put by the person who took the initiative to call him.

Article 326. Questioning of the accused

326.1. When starting the questioning, the president shall propose that the accused give evidence on the charge brought against him and on other circumstances of significance for the thorough, full and objective examination of the charge.

326.2. After testifying freely, the accused shall be questioned by the public prosecutor and if necessary, with the permission of the president, by the victim (or victim bringing a private prosecution), the civil party and his representative, then by his own defence counsel, and if necessary, with the permission of the president, by other accused persons and their defence counsels, the defendant to the civil claim and his representative.

326.3. After being questioned by the persons mentioned in Article 326.2 of this Code, the accused shall be questioned by the judges. Defence counsel for the accused shall have the right to put the last questions.

326.4. Questions irrelevant to the case shall be dismissed by the president.

326.5. The accused shall have the right to testify with the permission of the president at any time during the court's examination of any evidence.

326.6. During questioning the accused may use written notes and documents.

326.7. If notes and documents that relate to his testimony are read out by the accused, they shall, at the request of the court, be presented to the court for examination and added to the file on the proceedings. At the request of the parties to the proceedings, notes and documents from the accused which are added to the file shall also be presented to them for examination.

326.8. During the questioning of the accused:

326.8.1. the parties to the proceedings may present items and documents in their possession and the court may present items and documents added to the file on the proceedings;

326.8.2. the parties to the proceedings may apply to inspect these documents and have them added to the file;

326.8.3. the parties to the proceedings and the court may put questions to the accused concerning the items and documents presented to him (it shall be stated in the record of the hearing only which items and documents were presented during the questioning of the accused and by whom).

326.9. By reasoned decision of the court, where necessary for a thorough, full and objective investigation of the circumstances connected with the criminal prosecution, the accused may be questioned in the absence of another accused person. On the return of the latter to the courtroom:

326.9.1. the testimony of other accused persons questioned in his absence which has been included in the record of the hearing shall be read out;

326.9.2. he shall be given the opportunity to give any necessary evidence and to put questions to the accused questioned in his absence.

Article 327. Making public the testimony of the accused

327.1. Testimony given by the accused during the pre-trial proceedings, or during the pending court proceedings at an earlier hearing or at the current hearing, and audio, video or film recording of this testimony, may be made public or shown only in the following circumstances:

327.1.1. if the accused refused to testify on the substance of the charge during the pre-trial proceedings;

327.1.2. if the court is examining the case without the participation of the accused;

327.1.3 if there are significant discrepancies between the testimony given earlier by the accused and that given during the current examination of the case (in this case the testimony of the accused may be made public only after he has testified freely and answered the questions put to him).

327.2. Before the testimony included in the record of the questioning of the accused or the record of the court hearing is made public, it shall not be possible to play an audio recording or show a video or film recording of testimony given earlier.

Article 328. Questioning of witnesses

328.1. At the hearing, witnesses shall be questioned separately and in the absence of those witnesses yet to be questioned.

328.2. Before questioning the witness, the president shall establish his identity and explain the following to him:

328.2.1. the right to refuse to testify against himself or his close relatives;

328.2.2. that the duty of witnesses testifying in court is to disclose truthfully all the circumstances known to them and related to the charge under consideration;

328.2.3. the criminal responsibility incurred for refusing to testify or for intentionally giving false testimony.

328.3. Witnesses shall acknowledge in writing the explanations given to them in accordance with the requirements of Article 328.2 of this Code. This acknowledgment by witnesses shall be added to the record of the hearing.

328.4. Before a witness testifies, he shall take an oath, repeating the following words after the court clerk:

"I swear to tell the court the truth and all the circumstances known to me in connection with the criminal prosecution". A note about the oath taking shall be made in the record of the hearing. A witness under 16 (sixteen) years old shall instead undertake verbally to tell only the truth and not to hide anything, and a note to this effect shall be made in the record of the hearing.

328.5. The president shall ascertain the relationship of witnesses to the accused, the victim, the civil party, the defendant to the civil claim and others participating in the proceedings and shall propose that they testify on the facts known to them in connection with the charge under consideration. The court shall not allow anyone to interrupt the free testimony of a witness.

328.6. Witnesses summoned to the hearing at the request of one of the parties to the proceedings shall be questioned in the following order:

328.6.1. by the person who made the request;

328.6.2. by other persons belonging to that party;

328.6.3. by persons belonging to the opposite party;

328.6.4. by the court.

328.7. Witnesses summoned on the initiative of the court shall be questioned first by the prosecution, then by the defence, and after that by the court.

328.8. A witness under 16 (sixteen) may be questioned, without the accused being present at the hearing, if this is necessary for a full, thorough and objective investigation of all the circumstances connected with the criminal prosecution, at the request of one of the parties to the proceedings or on the initiative of the court, and only by reasoned decision of the court. In all cases the testimony of a witness under 16 (sixteen) shall be read out to the accused, who shall be allowed to put questions to the witness through defence counsel. After returning to the courtroom, the accused shall have the right to give his own evidence on the information given by the under-age witness.

328.9. Save when the presence of the under-age witness in the courtroom is deemed necessary by the court, either at the request of the parties to the proceedings or on its own initiative, the witness shall leave the courtroom after being questioned.

Article 329. Making public the testimony of witnesses

329.1. Testimony given by witnesses during the pre-trial proceedings or during the pending court proceedings at an earlier hearing or at the current hearing may be made public in the absence of the witness, and an audio recording or a video or film recording of this testimony may be played or shown, only for the reasons which rule out the attendance of the witness at the court's examination of the case, and in other circumstances provided for in Article 311.2 of this Code.

329.2. The audio recording of the testimony of a witness may only be listened to, and the video recording shown, after the record of his questioning or the part of the record of the hearing containing the testimony of the witness has been made public.

Article 330. Questioning of the victim

330.1. The victim shall be questioned under the rules laid down in Article 328 of this Code relating to the questioning of witnesses.

330.2. At the court hearing, the victim shall be questioned before the questioning of witnesses and the examination of other evidence. Only the questioning of the accused may be an exception to this rule.

330.3. The victim arguing the charge shall be questioned first by the prosecution, then the defence, and after that by the court.

330.4. If the parties to the proceedings agree, the court may allow the victim to leave the courtroom after he has been questioned, at his request.

Article 331. Expert reports during the court's examination of the case

331.1. If an expert report was submitted during the pre-trial proceedings, the expert opinion given at that stage shall be examined during the court's investigation of the case.

331.2. The expert who gave his opinion during the pre-trial proceedings shall have the following rights:

331.2.1. to participate in the court's examination of the case and in the study of the evidence relating to the subject of the expert report;

331.2.2. to participate in the questioning of the accused, the victim and witnesses, in the examination of the material evidence and in the conduct of other investigative procedures.

331.3. After examining the expert's opinion, and after hearing the opinions of each of the parties to the proceedings, the court shall have the right to order a revised expert report or further expert reports at the request of the parties to the proceedings or on its own initiative.

331.4. If no expert report was ordered during the investigation, the parties to the proceedings may apply to the court to order an expert report during its examination of the case.

331.5. The parties to the proceedings shall state the following in their written application:

331.5.1. the questions on which the expert is to give his opinion;

331.5.2. the circumstances to be investigated;

331.5.3. suggestions as to the choice of expert.

331.6. Each party to the proceedings shall have the right:

331.6.1. to be acquainted with any application by the opposite party concerning the ordering of an expert report;

331.6.2. to give opinions regarding the matters provided for in Article 331.5 of this Code.

331.7. If during the investigation no expert report was drawn up to determine the circumstances provided for in Article 140.0.1 –140.0.4 of this Code, the court shall ensure that an expert report is produced. If, in this or other cases, an expert report is ordered, the court president shall propose that the parties to the proceedings put questions to the expert and express their views concerning the person from whom the report is to be

commissioned and the matters to be investigated. At the request of any one of the parties to the proceedings, the court shall announce adjournments in the hearing to give the parties an opportunity to express their views and put questions.

331.8. The parties to the proceedings shall have the right to present items and documents as the subject of an expert report. Items may only be excluded from the list by reasoned decision of the court.

331.9. The final ordering of an expert report during the court's examination of the case shall be presented in a court decision.

331.10. The person appointed as an expert shall be given a copy of the decision ordering an expert report and the expert's rights and duties shall be explained to him.

331.11. Where necessary for purposes of investigation, the court, after hearing the opinions of the parties of the proceedings, may postpone the hearing.

331.12. The expert's opinion shall be presented to the court in writing and shall be delivered at the hearing on the instructions of the president.

Article 332. Questioning of experts

332.1. Experts summoned to a court hearing shall be questioned in the following order:

332.1.1. by the person at whose request the expert report was prepared;

332.1.2. by others belonging to that party;

332.1.3. by persons belonging to the opposite party;

332.1.4. by the court.

332.2. If the expert report is prepared at the request of the parties to the proceedings or on the initiative of the court, the expert shall be questioned by the prosecution, the defence and the court in turn.

Article 333. Examination of material evidence

333.1. The material evidence that is before the court and any items presented by the parties to the proceedings and accepted as material evidence by the court shall be examined by the prosecution, the defence and the court in turn. If an item accepted as material evidence by the court is presented by one of the parties to the proceedings, that party shall examine it first. While being examined, the material evidence may be presented to witnesses, experts and specialists by the court president. In order for the charge to be investigated thoroughly, fully and objectively, these persons shall direct the court's attention to any significant facts detected in examining the material evidence.

333.2. The examination of material evidence that cannot be presented at the hearing shall be conducted in accordance with the rules laid down in Article 333.1 of this Code.

Article 334. Making documents public

If the documents added to the file on the pre-trial proceedings, presented to the court by the parties to the proceedings or requested by the court on its own initiative, disclose or confirm facts of significance for a full, thorough and objective investigation of the charge, those documents shall be made public at the hearing.

Article 335. Examination of the location and premises

335.1. After hearing the opinions of the parties to the proceedings, the court shall conduct an examination of the location or premises during its examination of the case, in the following circumstances:

335.1.1. if the record of the examination of the location or premises during the pre-trial proceedings fails to give the court satisfaction;

335.1.2. if the examination of the location or premises was not conducted earlier.

335.2. The examination of the location or premises shall be conducted by the prosecution, the defence and the court in turn.

335.3 If necessary, it shall be conducted with the participation of witnesses, experts and specialists.

335.4. Taking into account the circumstances connected with the criminal prosecution, and with the consent of the parties to the proceedings, the court shall have the right to instruct the court of first instance in the place where the items requiring examination are situated to examine the location and premises. In this case, the examination shall take place with the participation of the circumstantial witnesses and the record drawn up in accordance with the requirements of Article 236.6.1-236.6.7 of this Code shall be read out at the hearing.

Article 336. Presentation for identification, conduct of investigative experiments and taking of samples for examination

336.1. During the court's examination of the case, presentation for identification, investigative experiments and the taking of the samples for examination shall be conducted with the participation of the parties to the proceedings in accordance with the rules provided for in this Code for the pre-trial conduct of the appropriate investigative procedures.

336.2. In the circumstances provided for in this Code, presentation for identification, investigative experiments and the taking of the samples for examination may be conducted at a closed court hearing.

336.3. If it is impossible to conduct the presentation for identification, investigative experiment or taking of the samples for examination in accordance with the rules of court, the court, with the consent of the parties of the proceedings, may order these procedures to be carried out within a certain time by the prosecutor who was in charge of the procedural aspects of the investigation during the pre-trial proceedings.

336.4. The record of the presentation for identification, the record of the investigative experiment and the record of the taking of the samples for expert examination shall be read out at the hearing.

Article 337. Restricting the examination of evidence

337.1. If the public prosecutor considers that the evidence examined is sufficient to support the charge, he may request that the examination of the evidence presented by the prosecution be restricted to be evidence already examined. The court shall have the right to take the following steps after hearing each of the parties to the proceedings:

337.1.1. it may grant the request;

337.1.2. if it considers that evidence not yet examined is important for a full, thorough and objective investigation of the charge in court, it may turn down the request.

337.2. The defence shall have the right to refuse the examination of evidence added to the criminal case file by the person who started the proceedings, or presented to the court at the request of the accused, his defence counsel or his legal representative, or at the request of the defendant to the civil claim or his representative, but not yet examined in court. This refusal shall be accepted by the court in all cases.

Article 338. End of the court's investigation of the case

338.1. After examination of all the evidence presented at the hearing, the court president shall take the following steps with regard to the parties to the proceedings:

338.1.1 inform them that the court is ready to commence the oral submissions;

338.1.2. inform them that when giving its judgment the court will take account only of the evidence examined during its investigation of the case;

338.1.3. ascertain whether they have any applications to make concerning which evidence to examine in order to complete the court's investigation of the case and which facts of the case this evidence is needed to establish.

338.2. In deciding an application for completion of the court's investigation of the case, the court shall be guided by the requirement of a full, thorough and objective investigation of the facts which are of importance to the criminal prosecution.

338.3. If the application for completion of the court's investigation of the case is granted by reasoned decision, the president shall declare the court's investigation completed. If the application is not granted, the court shall continue its investigation of the case.

Chapter XLIV

ORAL SUBMISSIONS AND FINAL STATEMENT BY THE ACCUSED

Article 339. Start of oral submissions

339.1. At the end of the court's investigation of the case, the president shall announce the start of the oral submissions.

339.2. If any of those participating in the oral submissions asks for time to prepare them, the president shall adjourn the hearing for a specified duration.

Article 340. The parties' submissions

340.1. Oral submissions shall consist of speeches made by the public prosecutor, the victim (or victim bringing a private prosecution) or his representative, the civil party or his representative, the accused (only if defence counsel is not participating in the proceedings) or his defence counsel and the defendant to the civil claim or his representative, in turn.

340.2. If the public charge is argued by several public prosecutors, if there are several victims (or victims bringing private prosecutions), civil parties and their representatives, accused persons and defence counsels, and defendants to the civil claim and their representatives, the president shall give them time to determine the order of their submissions. If necessary, an interruption of the hearing may be announced for the purpose. If those mentioned cannot come to an agreement about the order of their submissions, the court shall give the appropriate decision after hearing their views.

340.3. The parties to the proceedings may not refer in their oral submissions to evidence which was not examined during the court's investigation of the case. If a party to the proceedings needs to use new evidence in order to justify the conclusion it has reached, it shall submit an application for renewal of the court's investigation of the case, indicating which facts require further investigation and on which grounds. After hearing the opinion of the other party to the proceedings, the court shall decide whether or not to grant the application.

340.4. The court may not place a time limit on the oral submissions. However, if those making oral submissions touch on circumstances irrelevant to the charge examined, the president shall have the right to interrupt their submissions.

Article 341. Replies

After the oral submissions of all those participating in the court's examination of the case have been made, the public prosecutor, the victim (or victim bringing a private prosecution), the accused and defence counsel shall have the right to submit brief objections and observations in response to the submissions made by the representatives of the parties to the proceedings.

Article 342. Final statement by the accused

342.1. After the oral submissions and the replies, the accused shall be allowed a final statement. Questions may not be put to the accused while he is making his final statement.

342.2. The court may not set a time limit for the final statement of the accused. If the accused touches on circumstances that clearly do not relate to the charge examined in the court, the president shall have the right to interrupt him.

342.3. If the accused, in his final statement, discloses circumstances which are of importance for the full, thorough and objective examination of the charge, the court shall renew its investigation of the case.

Article 343. Proposals by the parties to the proceedings on the substance of the charge

343.1. After the final statement by the accused, before the court retires to the deliberation room, the parties to the proceedings may submit a draft of the court's final decision to the court on the basis of the results of the court's examination of the case.

343.2. If one of the parties to the proceedings makes a proposal concerning the draft of the final court decision, he shall also give this draft to the other party to the proceedings.

Chapter XLV

FINAL COURT DECISION

Article 344. Court's retirement to the deliberation room

344.0. After the end of the oral submissions and the final statement by the accused, and after the parties to the proceedings have been given the opportunity to make proposals on the draft of the final decision, the following steps shall be taken:

344.0.1. the president shall declare the court's examination of the case closed;

344.0.2. the court shall retire to the deliberation room to give a final decision on the results of its examination of the case.

Article 345. Secrecy of the judges' deliberations

345.1. Matters connected with the adoption of the final court decision on the results of the court's examination of the case shall be discussed by the court (or examined by the judge) in the deliberation room.

345.2. In the deliberation room, there may only be judges who were among the members of the court during its examination of the criminal case, the file on simplified pre-trial proceedings or the complaint with a view to a private prosecution. While the final court decision is being discussed by the court (or examined by the judge) and adopted, it shall be absolutely prohibited for other persons to be in the deliberation room.

345.3. The judges may arrange adjournments in the following cases:

345.3.1. for meal breaks;

345.3.2. when the working day is over;

345.3.3. on public holidays and days off.

345.4. While discussing and adopting the final decision on the results of the court's examination of the case, the judges may not disclose the views put forward.

Article 346. Matters discussed by the court in the deliberation room

346.1. The following matters relating to the results of the court's examination of the case shall be discussed by the court (or examined by the judge) in the deliberation room:

346.1.1. whether the criminal act is proved;

346.1.2. whether it is proved that the act committed by the accused has a criminal content;

346.1.3. whether it is proved that the accused was connected with the commission of the offence;

346.1.4. whether the accused is proved guilty of committing the offence;

346.1.5. whether the act committed by the accused corresponds to the ingredients of the offence with which the accused is charged under the relevant provision of criminal law;

346.1.6. whether there are circumstances that preclude the act being an offence;

346.1.7. whether there are circumstances aggravating or mitigating the criminal responsibility of the accused;

- 346.1.8. whether there are grounds for exonerating the accused from criminal responsibility;
- 346.1.9. whether the accused should be punished for the act committed;
- 346.1.10. whether there are grounds for punishing the accused for reoffending;
- 346.1.11. which punishment to impose on the accused (including consideration of previous offences, the total number of offences, the total length of sentences, the combination of penalties, calculation of the length of sentences, an alternative penalty, reduction of sentence, the jurors' recommendation of a lighter sentence instead of the statutory penalty provided for in respect of this offence, and the possibility of imposing a conditional sentence);
- 346.1.12. whether the accused should serve the sentence;
- 346.1.13. if the accused is sentenced to deprivation of liberty, to which penal or corrective institution he should be committed;
- 346.1.14. whether it is necessary to impose additional penalties on the person found guilty of the offence, and if so, which penalty;
- 346.1.15. whether it is possible to apply compulsory corrective training measures to an under-age accused and, if so, which measures;
- 346.1.16. whether it is possible to apply compulsory measures of a medical nature to the accused and, if so, which measures;
- 346.1.17. in whose interest and for what amount the civil claim should be secured;
- 346.1.18. whether the attachment of property, either for the purpose of confiscation or to pay for the damage caused by the offence, should be rescinded;
- 346.1.19. how to decide the matter of the material evidence;
- 346.1.20. whether to annul, modify or adopt a restrictive measure (and if so, which measure), including how to resolve the matter of bail;
- 346.1.21. whom to charge with the court expenses, and their amount;
- 346.1.22. when the sentence is to start;
- 346.1.23. whether there are grounds for giving a special decision; if so, about whom it will be given and what its content will be.
- 346.2. If the question of the ability of the accused to understand or control his actions during and after the commission of the offence was raised during the pre-trial proceedings or the court's examination of the case, and if in this connection it was necessary to commission a forensic psychiatry report, the question of the understanding of the accused shall be discussed once more by the court.

Article 347. Rules governing the adoption of the final court decision

- 347.1. The final decision (judgment or other decision) on the results of the court's examination of the case shall be adopted only after the points set out in Article 346.1 of this Code have been discussed by the judges (or examined by the judge) in the deliberation room.
- 347.2. The president shall present all the points for discussion by the judges (or the judge shall examine them) in the order provided for in Article 346.1 of this Code.
- 347.3. A final decision shall be taken on every point discussed. Each judge shall give a positive or negative answer on each point. No judge participating in the voting shall remain neutral. In all cases, the president shall vote last.
- 347.4. All points shall be decided by a simple majority of the votes. A decision on life imprisonment may be adopted only unanimously by the judges.

347.5. The decision proposed by the president on each point discussed in the deliberation room shall be put to the vote first. If one of the judges votes for the acquittal of the accused, and if the decisions of the other two judges on the classification of the offence and the penalty do not coincide, the vote of the judge proposing the acquittal shall be added to the vote of the judge proposing the most favourable decision for the accused.

347.6. Any judge giving a separate opinion during the adoption of the decision shall have the right to disclose this opinion in writing within 3 (three days) of the delivery of the final decision. The separate opinion shall be presented to the president, who shall add it to the file on the court proceedings in a sealed envelope which may be opened only during proceedings before the court of appeal or the Supreme Court.

347.7. The president shall draw up a record certifying the fulfilment of the requirements of Article 347.1-347.6 of this Code and shall state in this record the family names of the judges, the points discussed in the deliberation room and the number of votes given by the judges in deciding each point. This record shall be added to the file on the court proceedings in a sealed envelope which may be opened only during proceedings before the court of appeal or the Supreme Court.

Article 348. Characteristics of the adoption of the final court decision on certain matters

348.1. If the court comes to the conclusion, on the grounds of the results of its examination of the case, that a person under 18 years old who has committed an offence that does not pose a major public threat, or a minor offence for the first time, could be reformed without being charged, it may adopt a decision on the application of one of the compulsory corrective training measures.

348.2. In the following cases, on the basis of the results of its examination of the case, the court shall decide to apply one of the compulsory medical measures provided for by criminal law:

348.2.1. if the accused was unaware of what he was doing during the commission of the offence;

348.2.2 if, after committing the offence, the accused falls ill with a mental disorder that precludes imposing or enforcing a criminal penalty;

348.2.3. if the accused committed the offence and is suffering from a mental disorder which does not preclude his having been unaware of what he was doing;

348.2.4. if the accused committed the offence and is in need of treatment for alcoholism or drug abuse.

348.3. In deciding on acquittal the court shall decide the matter of compensation for any damage caused to the acquitted person by unlawful acts on the part of the prosecuting authorities.

348.4. If a person is charged with several offences, the court shall separately decide on the matters set out in Article 346.1.1-346.1.12, 346.1.14-346.1.16 of this Code in respect of each offence.

348.5. If several persons are charged with an offence, all the matters set out in Article 348.1 of this Code shall be separately decided in respect of each accused person.

348.6. When sentencing a person to probation, the court shall decide the following matters:

348.6.1. the length of the probation period and the practical duties imposed on the person sentenced;

348.6.2. who is to be responsible for supervising the person sentenced to probation.

Article 349. General requirements governing court judgments

349.1. The court judgment shall be given on behalf of the Azerbaijan Republic.

349.2. The court judgment may be either a conviction or an acquittal.

349.3. The court judgment shall be lawful and well-founded.

349.4. The court judgment shall be considered lawful if it fulfils the requirements of the Constitution of the Azerbaijan Republic, this Code and the criminal and other legislation of the Azerbaijan Republic.

349.5. In the following cases the court judgment shall be considered well-founded:

349.5.1. if the conclusions at which the court arrives are based only on the evidence examined during the court's investigation of the case;

349.5.2. if the evidence is sufficient to assess the charge;

349.5.3. if the facts established by the court are consistent with the evidence investigated.

Article 350. Acquittal

350.1. Acquittal by the court represents the final decision on the results of the court's examination of the case, to the effect that the accused is not guilty of the charge brought against him in court.

350.2. In any of the circumstances provided for in Article 42.1 of this Code, the court shall give an acquittal on the basis of the results of its examination of the case.

350.3. An acquittal verdict may not include statements that cast doubt on the innocence of the person acquitted.

350.4. If, when an acquittal is given, the person who committed the offence remains unknown, the court shall refer the criminal case file or the file on simplified pre-trial proceedings to the public prosecutor, once the judgment has become final, to decide the question of the criminal prosecution of that person in accordance with the provisions of this Code.

Article 351. Conviction

351.1. A conviction by the court represents the final decision on the results of the court's examination of the case, finding the accused guilty of the offence committed and imposing a penalty (or in the circumstances directly provided for by criminal law, not imposing a penalty or releasing him from punishment).

351.2. A conviction by the court may n